Laws, Memorials, and Resolutions

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

NINTH REGULAR SESSION

OF THE

LEGISLATIVE ASSEMBLY,

HELD AT THE TOWN OF HELENA, THE CAPITAL OF THE SAID TERRITORY, COMMENCING JANUARY 3, A. D. 1876, AND ENDING FEBRUARY 11,

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, AND THE ORGANIC ACT AND AMENDMENTS THERETO OF THE TERRITORY.

PUBLISHED BY AUTHORITY.

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CERTIFICATE OF AUTHENTICATION.

TERRITORY OF MONTANA, }
SECRETARY'S OFFICE, } ss:

I, JAMES E. CALLAWAY, Secretary of the territory of Montana, do hereby certify that the printed laws, joint memorials and joint resolutions contained in this volume are true, correct and full copies of all the enrolled laws, joint memorials and joint resolutions that were passed at the ninth regular session of the legislative assembly of said territory, begun and held at the town of Helena, the capital of said territory, on the 3d day of January, A. D. 1876, and ending on the 11th day of February, A. D. 1876, with the exceptions of corrections in orthography, punctuation, and omissions inserted in brackets.

In testimony whereof I have hereunto set my hand and affixed the great seal of said territory. Done at the town of Helena, [SEAL.] the capital of said territory of Montana, this 23d day of February, A. D. 1876.

J. E. CALLAWAY, *Secretary.*

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CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representative and direct taxes shall be apportioned among the several states which may be included within this Union,

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according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

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The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sec. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secresy; and the yeas and nays of

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the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such consideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall

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not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on the question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

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To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution and government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another;

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nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net products of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole

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number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

*Annulled. See 12th Amendment.

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In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

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The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws are faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Section 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their office during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [*between a state and citizens of another state;] between citizens of different states; between citizens of the

*Annulled. See 11th Amendment.

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same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress may make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

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No person held to service or labor in one state under the laws thereof, escaping to another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sec. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them from invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The congress whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

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ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

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AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES.

ARTICLE I.

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise re-examined by any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

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ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the persons voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before

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the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole unmber of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature

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thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

Sec. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including the debts incurred for payment of pension and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

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ORGANIC ACT

OF THE

TERRITORY OF MONTANA.

(PUBLIC, No. 76.)

AN ACT to provide a temporary government for the Territory of Montana

Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky Mountains; thence following the crest of the Rocky Mountains northward till its intersection with the Bitter Root Mountains; thence northward along the crest of said Bitter Root Mountains to its intersection with the thirty-ninth degree of longi-

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tude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law, or otherwise, which it would have been competent for the goverment to make if this act had never passed.

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander in chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offences

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against the laws of said territory, and reprieve for offences against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

Sec. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

Sec 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion

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to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties, for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be

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prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

Sec. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intention to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Each bill which shall have passed the council and house of representatives of the said territory, shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by

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adjournment, prevent its return, in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said dis-

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tricts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law; *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every

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term of said court, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases the same fees which the clerks of the district courts of Washington territory now receive for similar service.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney and mar-

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shal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered

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upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel, in going to and returning from said sessions, estimated according to the nearest usually traveled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof

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shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter by a majority of the legal votes cast on that question.

Sec. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the time and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said Montana territory as elsewhere within the United States.

Sec. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

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Sec. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modifiy such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Sec. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Sec. 18. *And be it further enacted*, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of

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north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirt-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington, to the forty-first degree north latitude, thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorported temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,
WASHINGTON, May 28, 1864.

A true copy:

W. H. HUNTER, *Chief Clerk.*

(PUBLIC, No 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved March 26, 1864.

Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private chaters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies incorporate for mining, manufacturing, and other industrial pursuits.

SEC. 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt

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claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory, as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce cases; *And provided further*, That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

Sec. 3. *And be it further enacted*, That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

Sec. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who way be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

Sec. 5. *And be it further enacted*, That for the purpose of receiving the legislative functions of the territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall

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be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly so elected shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as shall enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

Sec. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected shall, by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory; *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

Sec. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

Sec. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

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AN ACT regulating the compensation of the members and officers of the Legislative Assemblies of the several territories of the United States and limiting the duration of the sessions of said assemblies.

Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That the sessions of the legislative assemblies of the several territories of the United States shall be limited to forty days duration.

Sec. 2. That the members of each branch of said legislatures shall receive a compensation of six dollars per day during the sessions herein provided for, and they shall receive such mileage as now provided by law: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive a compensation of ten dollars per day, and that the additional officers of each branch of said legislative assemblies shall consist of one chief clerk, who shall receive a compensation of eight dollars per day, and one assistant clerk, one enrolling clerk, one engrossing clerk, one sergeant-at-arms, one door-keeper, one messenger, and one watchman, who shall each receive a compensation of five dollars per day during the sessions.

Sec. 3. That from and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several territories of the United States shall be three thousand five hundred dollars, and the salaries of the secretaries of said territories shall be two thousand five hundred dollars each.

Sec. 4. The provisions of this act shall not apply to the District of Columbia: *Provided*, That no law of any territorial legislature shall be made or enforced by which any officer of a territory herein provided for, or the officers or members of any territorial legislature shall be paid any compensation other than that provided by the laws of the United States.

Appoved January 23, 1873.

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LAWS OF MONTANA.

AUDITOR.

AN ACT to repeal an act entitled "An Act defining the duties of Territorial Auditor."

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That an act entitled "An Act defining the duties of territorial auditor," approved February 13th, 1874, be, and the same is hereby, repealed.

Approved January 24th, 1876.

BRIDGES.

AN ACT for the protection of public bridges in the Territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. It shall hereafter be unlawful for any person or persons to ride or drive any animal over or across any public bridge, crossing any stream or river in the territory of Montana, faster than a walk. And any person violating the provisions of this section shall be adjudged guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisoment.

Regulates speed in passing over bridges.

Penalty for violation of this section.

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Regulation as to driving loose stock over bridges.

Sec. 2. It shall hereafter be unlawful for any person or persons to drive any loose stock, such as horses, mules or cattle, over or across any public bridge, crossing any stream or river in the territory of Montana, in a larger number than fifteen head of such loose stock, at any one time. And any person violating the provisions of this section shall be adjudged guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

Penalty for violating sec. 2.

Notices posted on bridges.

Sec. 3. It shall be the duty of the board of county commissioners to cause to be posted at each end of all bridges coming under the provisions of this act, notices setting forth substantially the provisions of this act.

Act not to apply to bridges under forty feet in length.

Sec. 4. This act shall not apply to any bridge the span of which is less than forty feet.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

CHATTEL MORTGAGES.

AN ACT concerning chattel mortgages.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That any mortgagor, or agent, servant, or employe of any mortgagor of personal property, who shall, during the time such mortgage remains in force and virtue, destroy, conceal, sell, or otherwise dispose of the property mortgaged, or who shall remove said property from the county in which said mortgage is recorded, without the written consent of the mortgagee, or assignee of the mortagee, shall be deemed guilty of a misdemeanor, and on

Penalty for removing, concealing, or disposing of mortgaged property, without written consent of mortgagee or assignee.

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conviction thereof shall be punished by fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days, nor more than six months, or by both such fine and imprisonment, at the discretion of the court.

Sec. 2. This act shall be in force from and after its passage.

Approved February 11, 1876.

CIVIL PRACTICE ACT.

AN ACT to amend section six hundred and thirty (630) of the Civil Practice Act, concerning proceedings in probate courts.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Section six hundred and thirty (630) of "An Act to regulate proceedings in civil cases in the courts of justice in the territory of Montana," approved January 12, 1872, is hereby amended so as to read as follows: Section amended.

"Sec. 630. The provisions of this act, so far as applicable, shall govern the proceedings and practice in the probate courts of the territory in civil actions; but no judgment rendered in the probate court shall be a lien upon any real estate, nor shall any real estate be sold on execution issued out of the probate court. Any person recovering a judgment in the probate court may file a certified transcript of such judgment with the clerk of the district court of the county wherein such judgment is recovered; and said clerk shall docket such judgment in the same manner as judgments rendered in said district court. And said judgment, from the time of such docketing, shall be a lien upon the real Judgment rendered in probate court not a lien on real estate.

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How judgment rendered in probate court made a lien on real estate.

estate of the defendant, as provided by law; and execution may be issued thereon by the clerk of the said district court, and real estate sold in the same manner as on other executions issued on judgments in said district court: *Provided*, That writs of attachments issued out of the probate court may be levied on real estate in the same manner as writs issued out of the district court; but no such real estate levied on by attachment shall be sold on execution until the judgment is docketed in the district court above provided."

Acts repealed.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 2, 1876.

CIVIL PRACTICE ACT.

AN ACT concerning judgments in justices' courts.

Be it Enacted by the Legislative Asembly of the Territory of Montana:

Party obtaining judgment in justice's court may demand transcript and file in office of district clerk.

Sec. 1. That section 720, chapter 4, of the civil practice act of Montana, be so amended as to read as follows:

"Sec. 720. The justice, on demand of the party in whose favor judgment is rendered, shall give him a transcript thereof, which may be filed and docketed on the judgment docket in the office of the district clerk of the county where the judgment was rendered. The time of the receipt of the transcript by the district clerk shall be noted by him thereon, and entered on the docket, and from that time the judgment shall be a lien upon the real property of the defendant, the same as judgments in district courts; and executions may be issued by the dis-

When transcript filed in district clerk's office, judgment becomes a lien on real estate of the defendant.

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trict clerk, on such judgment, to the sheriff of any county of the territory, in the same manner as upon judgments rendered in the higher courts.

"No judgment rendered by a justice of the peace shall be a lien, except when a transcript is filed, as above provided; and no levy of an execution from a justice's court shall be made on real property. When such transcript is to be filed in any other county than the one in which the justice resides, such transcript shall be accompanied by the certificate of the county clerk as to the official character of the justice in the county where he resides. Such judgment shall be a lien upon and bind the lands and tenements of the judgment debtor, situated in the county where the transcript may be filed and recorded in favor of such judgment creditor, as if such judgment had been rendered in the district court of such county."

Judgment in justice's court not to affect real property, unless transcript filed with district clerk.

Judgment to be lien upon real estate of judgment debtor, in any county where transcript filed.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Acts repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 5, 1876.

CIVIL PRACTICE ACT.

AN ACT to amend sections 244 and 247 of the Civil Practice Act.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That sections 244 and 247 of chapter 11 of the civil practice act, codified laws of Montana territory, be amended so as to read as follows:

Sections amended.

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When judgment-roll filed and docketed, the judgment to be lien on real estate of judgment debtor.

"Sec. 244. Immediately after filing a judgment roll, the clerk shall make the proper entries of judgment, under appropriate heads, in the docket kept by him, and, from the time the judgment is docketed, it shall become a lien on the real property of the judgment debtor, not exempt from execution in the county, owned by him at the time, or which he may afterwards acquire, until said lien expires.

Life of lien.

The lien shall continue for six years, unless the judgment be previously satisfied."

"Sec. 247. A transcript of the original docket, certified by the clerk, may be filed with the recorder of any other county, and from the time of filing, the judgment shall become a lien upon all the real property of the judgment debtor, not exempt from execution in such county, owned by him at the time, or which he may afterwards acquire, until the said lien expires. The lien shall continue for six years, unless the judgment shall be previously satisfied."

Certified transcript may be filed in any county. Judgment to become lien from time of filing same.

Acts repealed.

Sec. 2. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 7, 1876.

CIVIL PRACTICE ACT.

AN ACT concerning motions.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section 567 of title 15 of the civil practice act be amended so as to read as follows:

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"Sec. 567. Motions shall be made in the county in which the action is brought, or in any adjoining county in the same district: *Provided, however*, That in case of the absence of the judge of the district from his district, such motion may be made before the judge of any adjoining district. Written notice of a motion, as provided in this act, shall only be required in case of a motion made out of term time. Notice of a motion made in term time, except those made during the progress of a trial, shall be entered in a book to be kept for that purpose, and called the motion book; and such motion shall be for hearing after twenty-four hours from the time such notice is entered in the motion book."

Motions where shall be made.

Notice of motions how given.

Sec. 2. All acts and parts of acts in conflict with this (act) are hereby repealed.

Acts repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

CORPORATIONS.

AN ACT to amend an Act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory."

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Section 47 of chapter 18 of an act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872, is hereby amended so as to read as follows:

"Sec. 47. That any company or corporation incorporated as in section one (1) of this act, that shall

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Incorporated company not filing charter or certificate of incorporation, guilty of wilful negligence.

neglect or refuse, for the period of thirty days, to file for record their charter or certificate of incorporation, or copy thereof, with the secretary of the territory and county recorder of the county wherein such business may be carried on, shall be deemed guilty of wilful negligence on the part of said company or corporation; and, thereafter, any person or persons maintaining or prosecuting any civil action in any court of this territory against said company or corporation so neglecting or refusing to file for record their charter or certificate of incorporation, or copy thereof, with the secretary of the territory and county recorder, as hereinbefore provided, shall not be held to prove on trial, the incorporation of said company or corporation by the original charter or certificate of incorporation, or act of incorporation; but the same may be proved by general reputation. And the provisions of this section shall also apply to all companies and incorporations, incorporated by the legislature, or under the general laws of incorporation of any state or territory of the United States, other than this territory, that shall have failed or refused to file its charter, or certificate of incorporation, or act of incorporation, or a copy thereof duly authenticated, as provided in section 46 of this act, with the secretary of the territory and the county recorder of the county in which such company or corporation is carrying on business prior to the commencement of the civil action mentioned in this section.

When corporation guilty of wilful neglect, party suing same may prove existence of, by reputation.

Approved February 3, 1876.

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CORPORATIONS.

AN ACT to provide for the formation of corportions other than those for pecuniary profits.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. Any number of persons not less than three, may associate themselves together and become incorported for the purpose of establishing and conducting colleges, seminaries, libraries, or any scientific, medical, legal, social, agricultural, benevolent, or missionary societies, fire department, association or any society for the purpose of instruction in any art or science as provided herein.

Sec. 2. They may adopt and sign articles of association, and acknowledge the same before some officer authorized by law to take acknowledgments of deeds, which certificate shall show, *First*, The name of the corporation, its general purpose and plan of operation, the length of its existence, which shall not exceed twenty years, and the place of its location. *Second*, The terms of admission to membership, and the amount of monthly, quarterly, or yearly contributions required of its members. *Third*, If there is capital stock, the number of shares and the amount constituting a share. *Fourth*, The officers of the corporation or society, with time and place of appointing or electing the same, and the number of trustees or directors, if any, who are to conduct the transactions of the society during the first year of its existence. Said certificate shall be recorded in the office of the county recorder of the county in which said society shall be located, and a duplicate copy of such certificate shall be filed in the office of the secretary of the territory.

Sec. 3. Upon filing and recording such certificate as aforesaid, the persons therein named shall be

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come a body politic and corporate, with power to sue and be sued by its corporate name, to have a common seal, which may be altered at pleasure, to establish by-laws, and make all rules and regulations deemed expedient for the managament of its affairs in accordance with law.

Sec. 4. No dividend or distribution of property among the members or stockholders of any corporation formed under the provisions of this act shall be lawful, until the dissolution of such corporation.

Sec. 5. Any corporation formed under the provisions of this act shall have the right to take by purchase, gift, grant, or devise, and hold and use so much real estate, and no more, as may be necessary to enable it to carry out the object for which it was formed.

Sec. 6. The trustees of any college or seminary incorporated under provisions of this act, besides the general powers and privileges aforesaid, shall have power, *First*, To appoint and fix the salaries of a president, professors, tutors, and such other officers and agents as they may deem necessary and remove them at pleasure. *Second*, To direct and prescribe the course of study and discipline to be observed in the institution, and to grant such literary honors and degrees as are usually granted by any such institution in the United States. And in testimony thereof to give suitable diplomas under their seal, and the signatures of such officers of the institution as they may deem expedient.

Sec. 7. Any institution or society now in existence in this territory of the character mentioned in section one of this act, may enjoy all the benefits of this act, by complying with the provisions thereof, and may, by a vote of a majority of the members of such society, association, or company, to be taken in accordance with the by-laws or other legal regulations thereof, determine to avail itself of the pro-

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visons of this act, and to take and assume corporate name and powers thereunder; and may, by like vote, transfer to such corporation, when formed, all its property, real, personal and mixed, and thereupon said corporation to which such property is so transferred, shall take and hold the same, in the same manner, to the same extent, and with like effect, as the same was previously owned and held by the society, company, or association, so transferring the same, and may in its corporate name, sue for, and collect, all debts, dues, demands, subscriptions, devices, and bequests thereof. The said corporation so taking such property, shall take the same subject to all liens, trusts, and limitations, both legal and equitable, to which the same was subject before such transfer; and shall also be liable for all debts and obligations of such previous company or association, and shall pay the same to the full extent of the value of such property at the time of taking the same.

Approved February 9th, 1876.

COSTS.

AN ACT relative to costs in divorce cases.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section seven, of chapter twenty-two, of "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory, be amended so as to read as follows: Section amended.

"Sec. 7. Any woman suing for a divorce who shall make it appear satisfactorily to the court that she is poor and unable to pay the expenses of such suit, shall be allowed by the court to prosecute her suit without costs." Woman may prosecute suit for divorce without costs if unable to pay same.

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Acts repealed.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved January 24, 1876.

COUNTY BOUNDARIES.

AN ACT in relation to counties and county boundaries.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section 2 of chapter 20, codified statutes, be amended so as to read as follows:

"Sec. 2. That all that portion of the territory of Montana embraced in the following described boundaries shall be known as the county of Deer Lodge, to-wit: Commencing in the middle of Hell Gate river at a point directly opposite the most northerly point of the Medicine Tree hill; thence down the middle of said river to the mouth of Stony creek; thence up the middle of said creek to the middle branch of said creek; thence up the said middle branch of Stony creek to the summit of the Rocky mountains; thence in a southerly direction to the nearest stream of water that empties into the Big Hole river; thence down said stream to the Big Hole river; thence down the middle of said river to the mouth of Camp creek; thence up Camp creek to its right hand fork; thence up said fork to its source; thence in a direct line to the center of the summit of Table mountain; thence in a direct line to Parson's bridge, on the Jefferson river; thence westerly along Parson's toll road leading from said bridge to Butte City, to the point where said road crosses Fish creek; thence up said Fish creek to the base of the mountains; thence in a northerly direction to the summit of the main range of the Rocky mountains; thence along the

Boundaries of Deer Lodge county.

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summit of said mountains in a northerly direction to a point directly north of Medicine Tree hill; thence due south to the place of beginning in the middle of the Hell Gate river, opposite Medicine Tree hill."

Sec. 2. That section 9 of chapter 20, codified statutes, be amended so as to read as follows: Section amended.

"Sec. 9. That all that portion of the territory of Montana, embraced in the following described boundaries, shall be known as the county of Choteau, to-wit: Commencing at a point in the middle of the main channel of the Missouri river, opposite to the mouth of Deep creek; thence due east to intersect with the one hundred and eighth meridian of longitude; thence due north along the one hundred and eighth meridian of longitude to the intersection of the forty-ninth parallel of latitude; thence due west along the forty-ninth parallel of latitude, to a point directly north of Medicine Tree hill; thence due south to the summit of the main range of the Rocky mountains; thence along the summit of said mountains in a southerly direction to the head of the most northerly branch of Sun river, that heads in the Rocky mountains; thence in a easterly direction down the middle of said branch of Sun river to its mouth; thence down the middle of the main channel of the Sun river to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to the place of beginning." Boundaries of Choteau county.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed. Acts repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

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COUNTY BOUNDARIES.

AN ACT defining the boundary lines of Meagher county.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section one of an act, to amend section seven of chapter twenty of an act, entitled "an act revising, re-enacting and codifying the general and permanent laws of Montana territory," approved February 13th, 1874, be amended so as to read as follows: "That all that part of Montana territory, embraced within the following boundaries, be, and the same is hereby, declared to be Meagher county, to-wit: Commencing in the middle of the main channel of the Missouri river, opposite the mouth of Sixteen Mile creek; thence easterly along the center of the main channel of said Sixteen Mile creek, four miles; thence north to the northern boundary of Gallatin county; thence due east along said line to the one hundred and ninth parallel of longitude; thence due north along the one hundred and ninth parallel of longitude to the middle of the main channel of the Muscleshell river; thence down the middle of the main channel of the Muscleshell river to a point due east of the mouth of Smith's river; thence due west along the southern boundary line of Choteau county to the middle of the main channel of the Missouri river, opposite the mouth of Smith's river; thence up the middle of the main channel of the Missouri river to the place of beginning."

Section amended.

Boundaries of the county of Meagher.

Sec. 2. That the original section one, of which this act is amendatory, be, and the same is hereby, repealed.

Acts repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

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COUNTY COMMISSIONERS.

AN ACT to amend section thirteen of chapter twenty-one of "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory," on folio 435 of the codified statutes.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section thirteen (13) of chapter twenty-one (21) of "An Act revising, re-enacting, and codifying the general and permanent laws of Montana territory" be so amended as to read as follows, to-wit: Section amended.

"Sec. 13. Each member of the board of county commissioners shall be paid by the county ten cents per mile for the distance necessarily traveled in going to, and returning from, the county seat, and six dollars per day, out of the contingent fund of the several counties, for each day while in actual session, and no other compensation shall be allowed." Compensation of county commissioners established.

Sec. 2. That all acts and parts of acts conflicting with this act, be, and the same are hereby, repealed. Acts repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 19, 1876.

COUNTY COMMISSIONERS.

AN ACT to amend an act entitled "An Act authorizing the county commissioners of the several counties to dispose of the surplus moneys in the different county funds," approved February 13th, 1874.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. The county commissioners of the several counties are hereby authorized to transfer all sur-

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County commissioners authorized to transfer certain funds to other funds.

plus moneys that may be on hand in any of the several county funds, except the school fund, to such fund or funds as they may deem for the best interest of their respective counties, or to appropriate said surplus moneys to the payment of the outstanding indebtedness of their respective counties.

No moneys to be taken from school fund except for school purposes.

Provided, That no moneys belonging to the school fund shall be taken therefrom, except for school purposes.

Acts repealed.

Sec. 2. All acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 24, 1876.

COUNTY OFFICERS.

AN ACT to amend "An Act in relation to counties and county officers," approved January 12th, 1872.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section one of an act entitled "An Act relating to counties and county officers," approved January 12th, 1872, be so amended as to read as follows: "The county commissioners of the different counties of this territory may set apart, from the county part of the revenue of their respective counties, a certain sum, annually, for the payment of the outstanding county bonds and the interest thereon: *Provided*, That the sum so set apart shall not exceed seven mills of the number of mills levied for county tax. Said fund shall be known as the sinking fund to pay said bonds and interest, and which bonds shall be paid in the order in which they were issued, and whenever a sufficient sum

County commissioners may set aside part of revenue to pay bonds and interest.

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shall have accumulated in said sinking fund to pay any bond, over and above the sum required to pay the annual interest on the outstanding bonds, it shall be the duty of the treasurer to post upon the door of his office a notice, that there is money in his hands to pay such bonds, designating it by the number, date, amount, and the name of the payee, and from the date of such notice the interest of such bond or bonds shall cease, and it shall be the duty of the treasurer to file a true copy of such notice in the office of the clerk of his county, and the clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be prima facie evidence of such filing."

Treasurer to post notice when money to pay bonds.

Duty of clerk under the act.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Acts repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

COUNTY POOR.

AN ACT to provide for the support, care and maintenance of the county sick and poor.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That the board of county commissioners of the several counties of this territory are hereby invested with entire and exclusive superintendence of the poor in their respective counties.

County commissioners to have superintendence of the poor.

Sec. 2. Every poor person who shall be unable to earn a livelihood in consequence of bodily infirmities, idiocy, lunacy, or other cause, shall be supported by the father, grand-father, mother, grand-mother, children, grand-children, brothers or sisters of such

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Poor supported by relatives.

poor person, if they, or either of them, be of sufficient ability; and every person who shall fail or refuse to support his or her father, grand-father, mother, grand-mother, child, sister or brother, when directed by the board of county commissioners of the county where such poor person shall be found, whether such relation reside in the county or not, shall forfeit and pay to the county for the use of the poor of their county, the sum of thirty dollars per month, to be recovered in the name of the county commissioners, for the use of the poor aforesaid, before any justice of the peace, or any court having jurisdiction: *Provided*, That when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support except parent or child.

Action against relative refusing to support poor.

Sec. 3. The children shall be first called on to support their parents, if there be children of sufficient ability; if there be none, the parents of such poor person shall be next called on; and if there be no parents or children of sufficient ability, the brothers and sisters shall next be called on; and if there be no brothers and sisters, the grand-children of such poor person shall be called on, and then the grand-parents; but married females, while their husbands live, shall not be liable to a suit.

Order in which relatives called on to support the poor.

Sec. 4. When any poor person or persons shall not have relations in any county in this territory, as are named in the preceding sections, or such relations shall not be able financially, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require, out of the county treasury, as is hereinafter provided.

Pauper having no relatives or the same being unable to support pauper, the county to care for same.

Sec. 5. The county commissioners of their respective counties shall, at their regular session in September of each year, make an order directing the clerk of the board to publish a notice in a newspaper, inviting sealed proposals for the care, sup-

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port, and maintenance of the sick, poor, and infirm of the county, per capita, by the week, for the succeeding year; said proposals to include and cover the entire cost of feeding, clothing and nursing of the said sick, poor and infirm, and all burial expenses thereof; said notice to be inserted in said newspaper immediately after the order is made, and continue for four consecutive weeks.

Notice for sealed proposals for maintenance of the poor.

Sec. 6. Said proposals shall be addressed to the clerk of the board of county commissioners, and the said commissioners shall, at their December term, in the year A. D. 1876, and annually thereafter, open and carefully compare said bids, or proposals, and shall award the contract for the care, support, and maintenance of the sick, poor, and infirm of the county, by the week, per capita, to the lowest responsible bidder for the ensuing year.

Contracts for maintenance of the poor.

Sec. 7. And the boards of county commissioners of the several counties shall, annually at their December meeting, make a contract with some resident practicing physician, to furnish medicines and medical attendance to the said sick, poor, and infirm of their respective counties, and to the inmates of the county jail who may require medicines or medical treatment for the succeeding year.

Contract for medical attendance of poor.

Sec. 8. The person or persons to whom said contracts shall be awarded as provided for in sections 6 and 7 of this act, shall, before entering upon their duties as such contractors, execute a bond running to the people of the territory of Montana, in a sum not less than one thousand, nor more than five thousand, dollars, with two or more sureties, conditioned for the faithful performance of their respective contracts; said bond to be approved by and filed with the probate judge of the county. It shall be the duty of the physician to whom such contract shall be awarded, in whole or part, as provided in section 7 of this act, to examine each week all persons

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Bond to be given under sections 6 and 7.

who are or may become a charge upon the county, and, if after such examination he shall be satisfied that the physicial condition of such person or persons is such as to enable such person to support and maintain himself or herself, he shall so notify the contractor or contractors having such person or persons in charge, as provided for in section 6 of this act, by leaving with such contractor or contractors a notice, and file a duplicate thereof with the clerk of the board of commissioners, which notice shall be in substance as follows, to-wit: "A. B.—You will take notice that C. D. has so far recovered as to require no further care or medical treatment.

(Signed) "E. F. Physician."

And after the serving of said notice, and filing the duplicate thereof with the clerk, said person mentioned in said notice shall cease to be a charge upon said county.

Sec. 9. When any minor under fifteen years of age, or any other person shall become, or be likely to become, chargeable to the county either because of being an orphan, or because the parents or other relatives, as aforesaid, are unable or refuse to support such minor, it shall be the duty of the county commissioners, upon a written application to them made by any person of the county, to bind such minor as an apprentice to some respectable house-holder of the county, by written indenture, which shall bind such minor to serve as an apprentice. And such minor shall be permitted to attend shool, if there is one kept in his or her district, for some period of time in each year, to be prescribed in the article of indenture by the said board of county commissioners. And if said commissioners shall fail, neglect, or refuse to so apprentice said minor at their regular session immediately succeeding said application, then said county shall not thereafter be chargeable with the care, support, and maintenance of such minor person or sons.

When county commissioners to apprentice minor.

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Sec. 10. When any non-resident not coming within the definition of a pauper shall fall sick in any county in this territory, not having money or property to pay his board, nursing, or medical attendance, it shall be the duty of the commissioners of the proper county, on application being made, to give, or order to be given, such assistance to such person as they may deem just and necessary; and if such sick person shall die, then the said commissioners shall order to be given to such person decent burial; and the said commissioners shall make such allowance for board, nursing, and medical attendance, or burial expenses, as they may deem just and equitable, and order the same to be paid out of the county treasury.

Duty of commissioners if non-resident persons without money or property fall sick or die in county.

Sec. 11. All persons seeking relief under the provisions of this act, shall make application to the chairman of the board of county commissioners, or to the probate judge of said county, who, before granting an order for such relief, shall require of said pauper satisfactory evidence that he or she has been a resident of the county for two months immediately preceding the day upon which said application is made.

Application for relief under this act.

Sec. 12. When application is made by any pauper to the board of county commissioners as aforesaid, it shall appear to the satisfaction of said board that the person so applying for relief has resided in said county for two months, he shall be entitled to all the relief provided by this act; but if on examination it shall appear that said pauper is a resident of some other county of this territory, the commissioners shall, at the expense of the county, cause said pauper to be removed to the county of which he is a resident, or may, if they think best, issue a notice directed to some constable of the county, which said constable shall serve forthwith on said pauper, requiring him to depart forth-

Residence of pauper two months in county entitled to relief.

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Duty of commissioners if pauper is resident of some other county.

with from the county; and after so serving said notice by reading the same to said pauper, said constable shall within five days thereafter return the same to the clerk of the board of county commissioners issuing the same, noting the time and manner of service.

When pauper not entitled to relief.

Sec. 13. After service of such notice aforesaid, no pauper shall be entitled to relief from such county, unless the county commissioners deem it absolutely necessary.

Powers of commissioners to purchase and improve poor farm.

Sec. 14. The board of county commissioners of any county in this territory may, if they think proper, purchase, improve, and keep in repair a tract of land not exceeding one hundred and sixty acres, to be known as a poor farm, and to erect thereon suitable work houses for the use, health, and employment of such person or persons as are, or who may become, from time to time, a county charge; and such poor farm, with such work houses as may be erected thereon, together with such pauper as may become a county charge, shall be under such rules and regulations as the county commissioners may deem just and proper; and the county commissioners may, if in their judgment they deem it best, provide for the care, support, and maintenance of the sick, poor, and infirm of their respective counties upon said poor farm.

Surplus moneys of poor fund how set apart.

Sec. 15. Any surplus that may accumulate in the poor fund of the several counties, may be set apart and applied to the purposes of section 14 of this act.

Penalty if commissioner fail or refuse to discharge his duties under this act.

Sec. 16. Any county commissioner, or commissoners, who shall fail, refuse or neglect to perform any of the duties prescribed by the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars.

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Sec. 17. All acts and parts of acts in conflict with the provisions of this act, be, and the same are hereby repealed. Acts repealed.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

CRIMINAL LAWS.

AN ACT to amend section 73, of chapter 6, of the criminal laws of Montana Territory.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Every person who shall feloniously steal, take, and carry away, lead or drive away the personal goods or property of another, under the value of fifty dollars, shall be deemed guilty of petit larceny, and upon conviction thereof shall be punished by imprisonment in the county jail, not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment. And the court passing sentence upon any person or persons convicted under this section, may order that such person or persons may be kept on bread and water during all or any portion of his or their imprisonment. Penalty for larceny of goods valued under fifty dollars.

Sec. 2. That section 73 of chapter 6, of the criminal laws of Montana territory, be, and the same is, hereby repealed. Section repealed.

This act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1876.

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CRIMINAL LAWS.

AN ACT to amend section one of an act entitled "An Act to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana," approved May 2d, 1873.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. If any officer, board, or commission charged by law with any official duty, shall neglect or wilfully fail or refuse to fully do, perform or discharge such duty, such officer, and the members comprising such board, or commission, responsible therefor, shall be deemed guilty of a misdemeanor, and being thereof convicted, shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment of not less than ten days nor more than one year, or by both such fine and imprisonment in the discretion of the court. And if such imprisonment shall not be for more than three months, the same shall be in the county jail of the county in which such offense was committed; but if the said imprisonment shall exceed three months, then such imprisonment shall be in the penitentiary.

Officer neglecting or refusing to perform official duty to be punished.

Sec. 2. If any officer or member of any board or commission shall be convicted of a violation of section one of this act, such officer or member of such board or commission, shall be liable to the municipality damaged by such neglect, failure or refusal, for any and all damages which such municipality has suffered thereby, recoverable in an action brought for that purpose, as are other actions at law.

Officer violating sec. 1 liable to party injured.

Sec. 3. If any officer or the members of any board or commission, under color of their office, shall be guilty of any fraud, oppression, extortion, or deceit, they shall be deemed guilty of a misdemeanor, and shall also be liable to the party injured thereby to

Officer guilty of fraud or oppression to be punished; also liable to party injured.

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the extent of such damage, with exemplary damages, if the same was malicious. And if any such officer or member shall be convicted of the misdemeanor in this section defined, he shall be punished by a fine of not less than ten nor more than five hundred dollars, or may be imprisoned in the county jail not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 4. The district court shall have jurisdiction of the misdemeanor herein defined, and the district judge shall give in charge to the grand jury the misdemeanor defined in section one of this act, and charge them that they shall diligently enquire and duly present all persons violating the same.

District court to have jurisdiction of offenses under this act; also, district judge to charge grand jury.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 11th, 1876.

CRIMINAL PRACTICE ACT.

AN ACT prescribing the jurisdiction of courts in criminal cases.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section six of an act entitled "An Act to amend an act to regulate proceedings in criminal cases in the courts of justice in the territory of Montana," approved February 13th, 1874, be amended so as to read as follows:

Section amended.

"Sec. 6. That the district and probate courts shall have concurrent jurisdiction of all misdemeanors for the county in which they shall be qualified to act when the punishment therefor does not exceed a fine of five hundred dollars, or imprisonment for six months in the county jail, or by both such fine and imprisonment; but nothing in said act shall

District and probate courts to have concurrent jurisdiction in certain classes of misdemeanors.

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deprive the district court of jurisdiction over such misdemeanor, as the grand jury may, of its own motion, take cognizance of."

Sec. 2. This act to take effect and be in force from and after its passage.

Approved February 11th, 1876.

CRIMES AND PUNISHMENTS.

AN ACT in relation to crimes and punishments.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That if any married woman shall hereafter desert her husband, and live and cohabit with another man, in a state of adultery, she shall, on conviction thereof, be imprisoned in the county jail of the county where such offense is committed, not exceeding sixty days. And if any married man shall hereafter desert his wife, and live and cohabit with any other woman in a state of adultery, or if any married man living with his wife, shall keep any other woman and notoriously cohabit with her, in a state of adultery; or if any unmarried man shall live and cohabit with a married woman in a state of adultery, or if any unmarried man shall live and cohabit with an unmarried woman, every person so offending shall, on conviction thereof, be fined in any sum not exceeding three hundred dollars, and be imprisoned in the county jail of the county where such offense is committed, for a period not exceeding six months, and not less than sixty days.

Persons living in open and notorious state of adultery to be punished.

Sec. 2. All acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 28, 1876.

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DISEASED ANIMALS.

AN ACT in relation to diseased animals.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That all flocks of sheep now, or hereafter, in the territory of Montana, affected with the "scab," or other contagious disease, shall be kept secure within some enclosure, or herded not less than six miles away from any farm, corral, shed, or other established headquarters where sheep are kept or being herded. And all flocks of sheep affected with the "scab," or other contagious disease, shall be debarred from traveling upon the public highway in the neighborhood of any established headquarters without the owner, agent or shepherd in charge, first giving at least six hours' notice to the owner, agent or shepherd in charge of sheep at such headquarters that he will, at a time specified, pass along such highway with his band of sheep. And such band of sheep shall not be allowed to stop and graze on or adjacent to the highway within six miles of such established headquarters; but they shall be allowed to stop and graze a distance of not more than one-half mile from any public ferry, while engaged in crossing any stream or river: *Provided*, That any person or persons now or hereafter owning sheep affected with the "scab" or other contagious disease, and having established headquarters prior to the passage of this act for the same, shall be entitled to range such sheep upon the public domain a distance of six miles in any direction from such established headquarters, and shall not be subjected to the penalties prescribed in this bill: *Provided, further*, that all persons hereafter coming into the territory of Montana, with diseased sheep, and establishing headquarters six miles from any known

Regulations as to sheep with contagious disease.

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headquarters, shall enjoy all the rights and privileges guaranteed to prior locators on any of the unclaimed lands within the territory of Montana.

Penalty if owner of diseased sheep neglect to remove, etc.

Sec. 2. If any owner of such diseased sheep shall neglect or refuse to immediately remove them to some secure enclosure, or herd them away from such other sheep, as above provided, he shall be liable to be arrested, and upon conviction before a court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, and shall be liable in full for damages to all parties so injured by such diseased sheep, after due notice of their diseased condition shall have been served upon himself, agent or shepherd in charge of the same.

Penalty if owner of diseased sheep drive same on highway, without notice, etc.

Sec. 3. If any owner of sheep affected with the "scab," or other contagious disease, shall knowingly cause or permit them to be driven upon any range within six miles of any established headquarters where sheep are kept or being herded, without having previously given the notice required by section 1 of this act, he shall be liable in full for damages to all parties so injured by such diseased sheep, without any previous notice having been served upon himself, agent or shepherd in charge of the same, relative to the diseased condition of his sheep.

Unlawful for horse, cow, etc., with contagious disease, to run at large.

Same to be carefully herded, or kept in enclosure.

Sec. 4. It shall be unlawful for the owner or owners, or for any person or persons having in charge any horse, mule, ass, or horned cattle affected with any contagious disease, to allow said diseased animal or animals to run on the public range. All animals so affected with contagious disease shall be at once removed by the owner or owners thereof, or the person or persons in charge of the same, from the public range to some secure inside enclosure, where contact with other animals by reaching over or through the fence of said enclosure will be im-

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possible, or shall be strictly herded six miles away from any farm, or from any other stock running at large or being herded. Every person who shall knowingly neglect or refuse to remove, or so enclose, or herd away, from farms or other stock, such diseased animals affected with contagious disease, shall be liable to be arrested, and on conviction before any court of competent jurisdiction, shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, and shall also be liable for damages to the party or parties injured by such diseased animals running at large, after having received notice of their diseased condition: *Provided*, That this act shall not be construed so as to prevent owners of diseased animals from traveling over the main thoroughfares that pass through narrow canons.

Person injured by diseased animal, by neglect of the owner thereof, to have recourse for damages.

Permission given the owner to travel on the highway.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

DOWER.

AN ACT concerning dower.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. A widow shall be endowed of the third part of all lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless the same shall have been relinquished in legal form. Equitable estates shall be subject to the widow's dower, and all real estate of every description, contracted for by the husband during his lifetime, the title to which may be completed after his decease.

Widow endowed of one-third of all real estate of which husband was seized at law, or in equity, or contracted for.

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Lands mortgaged before marriage, subject to dower—exception.

Sec. 2. Where a person seized of an estate of inheritance in land shall have executed a mortgage of such estate before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

Dower subject to purchase money.

Sec. 3. When a husband shall purchase lands during coverture, and shall mortgage such lands to secure the payment of the purchase money thereof, his widow shall not be entitled to dower out of such lands as against the mortgagee, or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to dower as against all other persons.

Right of widow to one-third of surplus of lands sold under mortgage, after death of husband.

Sec. 4. When, in the cases specified in the two preceding sections, the mortgagee, or those claiming under him, shall, after the death of such husband, cause the land mortgaged to be sold, either under a power contained in the mortgages, or by virtue of a judgment or a decree of a court, and any surplus shall remain after the payment of the moneys due on such mortgage, and the costs and charges of sale, such widow shall be entitled to the interest or income of one-third part of such surplus for life as her dower.

Dower not to attach to lands mortgaged husband, unless he acquire title absolute.

Sec. 5. A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless he shall have acquired an absolute estate during the marriage.

Widow may elect dower to take under provisions of will.

Sec. 6. Every devise of land or any estate therein, by will, shall bar her dower in lands, or of her share in personal estate, unless otherwise expressed in the will; but she may elect whether she will take such devise or bequest, or whether she will renounce the benefit of such devise or bequest, and take her dower in the lands and her share in the personal estate.

Sec. 7. When a woman shall be entitled to an

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election under this act, she shall be deemed to have taken such devise, unless, within one year after the authentication or probate of the will, she shall deliver or transmit to the court of probate of the proper county, a written renunciation, which may be in the following form, to-wit: "I, A B, widow of C D, late of the county of ———, territory of Montana, do hereby renounce and quit all claims to the benefit of any bequest or devise made to me by the late will and testament of my said deceased husband, which has been exhibited and proved according to law (or otherwise, as the case may be), and I do elect to take in lieu thereof my dower, or legal share of the estate of my said husband;" which said letter of renunciation shall be filed in the office of the probate judge, and shall operate as a complete bar against any claim which such widow may afterwards set up to any provision which may have been thus made for her in the will of any testator, in lieu of dower; and by thus renouncing all claims, as aforesaid, such widow shall thereupon be entitled to dower in the lands, or share in the personal estate of her husband.

Widow deemed to have taken devise unless she renounces same.

Form of renunciation.

Widow declining bequest, deprived of provisions of will.

Sec. 8. If a husband die, leaving a widow, but no children, nor descendants of children, such widow may, if she elect, have, in lieu of her dower in the estate of which her husband died seized, whether the same shall have been assigned or not, absolutely and in her own right, as if she were *sole*, one-half of all the real estate which shall remain after the payment of all just debts and claims against the deceased husband. *Provided*, That, in case dower in such estate shall have been already assigned, she shall make such new election within two months after being notified of the payment of such claims and debts.

Rights of widow where husband dies childless, or without descendants of children.

Sec. 9. If a husband seized of an estate of inheritance in lands, exchange it for other lands, his

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Rights of widow where lands are exchanged for other lands.

widow shall not have dower of both, but shall make her election as hereinbefore provided, to be endowed of the lands given, or of those taken in exchange. And if such election be not evinced by the commencement of the proceedings for the recovery and assignment of her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands taken in exchange.

Dower to be assigned widow.

Sec. 10. It shall be the duty of the heirs at law, or other person having the next estate of freehold, or inheritance, in any lands or estate of which the widow is entitled to dower, to lay off and assign such dower as soon as practicable after the death of the husband of such widow.

Widow may sue for an assignment of dower if same not set off.

Sec. 11. If such heirs or other person shall not within one month next after the decease of said husband, assign and set over to the widow of the deceased, to her satisfaction, her dower in and to all lands, tenements, and hereditaments, whereof by law she is or may be dowable, according to the true intendment of law, then such widow may sue for and recover the same in the manner hereinafter prescribed against such heir or other person having the next immediate estate of freehold or inheritance, or tenant, in possession, or other person or persons claiming rights or possession in said estate.

How widow may sue for dower.

Sec. 12. Every widow claiming dower may file her petition in the district court of the proper county, against the parties aforesaid, stating their names, if known, setting forth the nature of her claim and particularly specifying the lands, tenements, and hereditaments in which she claims dower and praying that the same may be allowed to her; whereupon the clerk shall issue a summons as in other cases, and all subsequent proceedings shall be in accordance with the provisons of the civil practice act, except as hereinafter provided.

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Trial in case the right to dower be contested.

Sec. 13. Where the right of the widow to dower shall be contested, the court shall thereupon proceed to try the case, or direct an issue for that purpose, as the circumstances of the case may require.

Guardian appointed to minors to suit.

Sec. 14. When any of the parties defendant are minors and under age and without guardians, the court shall appoint guardians *ad litem* for such minors.

If judgment for widow, same entered for record.

Sec. 15. When the court adjudges that the widow shall recover dower, it shall be so entered of record, together with a description of the land out of which she is to be endowed; and the court shall thereupon appoint three commissioners not connected with any of the parties by consanguinity or affinity, and entirely disinterested, each of whom shall take the following oath, to be administered by the court or some one authorized to administer oaths: "I do solmnly swear that I will fairly and impartially allot and set off to A B, widow of C D, her dower out of lands and tenements described in the order of the court for that purpose, if the same can be made consistent with the interest of the estate, according to the best of my judgment. So help me God."

Appointment and oath of commissioners to set off dower.

Duty of commissioners in assigning dower.

Sec. 16. The commissioners, after being so sworn, shall as soon as may be, set off the dower by metes and bounds, attending to the commands of such order and according to the quantity and quality of all the lands, tenements, and hereditaments described in said order, and make return of their doings, with an amount of their charges and expenses in writing, to the court, and the same being accepted and recorded, and an attested copy thereof recorded in the office of the register of deeds of the county where the lands are situated, shall remain fixed and certain, unless such confirmation is set aside and reversed on appeal, and one-half of the costs of such proceedings shall be paid by the widow, and one-half by the adverse party.

Proceedings of, report accepted.

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If lands cannot be divided without injury to estate, the widow's interest therein to be assessed.

Sec. 17. If the commissioners aforesaid shall report that the lands or other estate is not susceptible of division without great injury thereto, a jury shall be empanelled to inquire of the yearly value of the widow's dower therein, and shall assess the same accordingly; the court shall thereupon render a judgment that there be paid to such widow as an allowance in lieu of dower, on a day therein named, the sum so assessed, as the yearly value of her dower, and the like sum on the same day in every year thereafter during her natural life.

Judgment for assessment due widow.

Of widow's right to dower in lands aliened.

Sec. 18. When a widow is entitled to dower out of any lands aliened by her husband in his life time, and such lands have been enhanced in value after the alienation, such lands shall be estimated in setting out the widow's dower according to their value at the time when they were so aliened.

Ante-nuptial settlement, when a bar to dower.

Sec. 19. A woman may be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage: *Provided*, Such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profits immediate on the death of the husband.

Assent of woman to the marriage settlement.

Sec. 20. Such assent shall be expressed if the woman is of full age by her becoming a party to the conveyance by which it is settled; and if she is under age, by her joining with her father or guardian in such conveyance.

When dower may be assigned anew.

Sec. 21. If a woman is lawfully evicted of lands assigned to her as a dower or settled upon the jointure, or is deprived of the provisions made for her by will or otherwise, in lieu of dower, she may be endowed anew in like manner as if such assignment, jointure or other provision had not been made.

Woman having dower not to suffer waste.

Sec. 22. No woman endowed of any lands shall commit or suffer waste on the same, but she shall maintain the houses and tenements with the fences

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and appurtenances in good repair, and shall be liable to the person having the next immediate estate of inheritance therein for all damages occasioned by any waste committed or suffered by her.

Damages for withholding dower.

Sec. 23. Whenever in an action brought for the purpose, the widow recovers dower in lands of which her husband died seized, she shall also recover damages for the withholding of such dower; such damages shall be one-third part of the annual value of the mesne profits of the lands in which she so recovers her dower, to be estimated in an action against the heirs of her husband from the time of his death; and in actions against other persons from the time of her demanding dower of such persons, but such damages shall not be estimated for the use of any permanent improvements made after the death of her husband, by his heirs, or any other person claiming title to any lands.

Writ giving widow possession of dower.

Sec. 24. In all cases where the report of the commissioners assigning dower shall be approved, the court shall forthwith cause the widow to have possession by a writ directed to the sheriff for that purpose.

ESTATES BY THE COURTESY.

Husband's estate by courtesy.

Sec. 25. When any man and his wife are seized in her right, and when a married woman is seized to her sole and separate use free from the control of her husband of any estate of inheritance in lands, the husband shall, on the death of his wife, hold the lands for his life as a tenant thereof by the courtesy: *Provided*, That if the wife at her death leaves issue by any former husband to whom the estate might descend, such issue shall take the same discharged from the right of the surviving husband to hold the same as tenant by the courtesy.

Approved February 11, 1876.

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ELECTIONS.

AN ACT to provide for biennial elections in the Territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Qualification of electors.

Sec. 1. That all male citizens of the United States above the age of twenty-one years, and all male persons of the same age who shall have declared their intention of becoming citizens, and who, under existing laws of the United States, may ultimately become citizens thereof, shall be deemed electors of this territory, and be entitled to vote for delegate to congress, and for territorial, district, county and precinct officers: *Provided*, They shall have resided in the territory three months, and in the county where they may offer to vote, thirty days next preceding the day of election.

What class disqualified.

Sec. 2. No person under guardianship *non compos mentis*, or insane, nor any person convicted of treason, felony, or bribery, in this territory or any other territory or state in the Union, unless restored to civil rights, shall be permitted to vote at any election.

Time of holding general elections.

Sec. 3. A general election shall be held in the several counties, townships or precincts, in this territory, on the first Tuesday after the first Monday in November, 1876, and every two years thereafter, at which election shall be chosen all such officers as are by law required to be elected.

Eligibility of delegate to congress and members of the legislature.

Sec. 4. No person shall be eligible to the office of delegate to congress, member of the council or house of representatives, unless he has been a resident of the territory for one year.

Appointment of judges of election.

Sec. 5. It shall be the duty of the commissioners of the several counties at their regular session immediately preceding said general election, to appoint three discreet and capable persons possessing

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the qualifications of electors, to act as judges of election in each township or precinct; and said board shall designate one or more of said judges whose duty it shall be to post up, or cause to be posted up, in each precinct or township, notices of election, in the manner hereinafter provided. Said board of commissioners shall also set off, and establish at said meeting, townships or precincts when the same may be necessary. And the clerk of said board shall make out and forward by mail, immediately after the appointment of said judges, a notice thereof in writing directed to each of said judges so appointed. In case there shall be no post office in any one or more of the townships or precincts, in any county, then in that event the clerk shall forward notices of such appointment, by mail, to the post office nearest such precinct or township, directed to the judges, as aforesaid. If in any of the townships or precincts, any of said judges refuse or neglect to serve, the voters of such township or precinct may elect a judge or judges to fill vacancies on the morning of the election, to serve at such election.

Judges, how notified.

Sec. 6. The said judges shall choose two persons, having the same qualifications with themselves, to act as clerks of the election. The said judges shall be and continue judges of all elections of civil officers to be held in their respective townships, until other judges shall be appointed, as hereinbefore directed; and the said clerks of election may continue to act as such during the pleasure of the judges of election, and the county commissioners shall, from time to time, fill such vacancies which may occur in the offices of judges of election in any township within their respective counties.

Appointment of clerks, term of office of judges.

Sec. 7. The clerks of the several boards of county commissioners shall, at least thirty days before any general election, make out and forward by

Notices of election.

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mail to such judge or judges as shall be designated by the county commissioners, three written notices for each township or precinct, said notices to be as near as circumstances will admit, as follows:

Notice is hereby given that on the first Tuesday after the first Monday of November, at the house of ————, in the county of ————, an election will be held for delegate to congrees, members of the legislative assembly, county, township and precinct officers (naming the offices to be filled), which election will be open at 8 o'clock in the morning and continue open until 6 o'clock in the afternoon of the same day.

Dated, this ———— day of ———— A. D. 18 (as the case may be.)

Signed, A B, clerk of the board of county commissioners.

Posting of notices.

Sec. 8. The judge or judges aforesaid to whom such notices shall be directed as provided in section 7 of this act, shall cause to be put up in three of the most public places in each township or precinct the notices of election in such township or precinct, at least ten days previous to the time of holding any general election, and in cases where townships or precincts may be set off by leave as election precincts, said notices shall be posted as follows: one at the house where the election is authorized to be held, and the others at the two most public and suitable places in the township or precinct.

Sec. 9. Previous to votes being taken, the judges and clerks of election shall take and subscribe the following oath:

Oath of election officers.

I, A B, do solmnly swear or affirm, that I will perform the duties of judge of the election (or clerk, as the case may be) according to law and the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse, in conducting the same.

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Administration of the oath to election officers.

Sec. 10. In case there shall be no judges or justices of the peace present at the opening of the election, or in case such judge or justice of the peace shall be appointed judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered, to administer the oath to each other, and to the clerks of the election, and the person administering the oath shall cause an entry thereof to be made, subscribed by him, and prefixed to the poll-book.

Opening and closing the polls.

Sec. 11. At all elections to be held under this act, the polls shall be opened at eight o'clock in the forenoon, and continue open until six o'clock in the afternoon of the same day, at which time the polls shall be closed; and at the opening of the polls one of the clerks, under the direction of the judges, shall make proclamation of the same, and thirty minutes before the closing of the polls proclamation shall be made in like manner, and the polls shall be closed in a half hour; but the board may, in their discretion, adjourn the polls at twelve o'clock at noon for one hour, prolamation of the same being made.

Elector to vote by ballot.

Sec. 12. Every elector shall deliver, in full view of one of the judges of election, a single ballot or piece of paper, on which shall be written or printed the names of the persons voted for, with a pertinent designation of the office which he or they may be intended to fill. Said ballots may be open or folded, as the voter may choose.

Duty of election officers when ballot is delivered.

Sec. 13. The judges to whom any ticket may be delivered shall, upon the receipt thereof, pronounce, with an audible voice, the name of the elector, and if no objections be made to him, and the judges shall be satisfied that the elector is legally entitled to vote, he shall immediately put the ballot in the box, without inspecting the name thereon. The clerk of the election shall enter the name of the elector and number in the poll-book.

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Place where elector may vote.

Sec. 14. It shall be lawful for any elector to vote for delegate to congress at any place of holding elections in this territory, for members of the legislative assembly, and all other officers, at any place for holding elections within the particular limits for which such member of the legislative asssembly and such other officers are to be elected: *Provided*, That an elector, qualified to vote for part and not all of the officers to be chosen at any election, shall vote an open ticket, and the judges may determine the legality of such vote.

Challenge of voter. Duty of officers.

Sec. 15. If any person offering to vote shall be challenged as unqualified by any judge or clerk of the election, or any other person entitled to vote at the same poll—and either judge may challenge any person offering to vote whom he shall know or suspect not to be qualified,—the judges shall declare to the person so challenged the qualifications of an elector; if such person shall then declare himself duly qualified, and the challenge be not withdrawn, one of the judges shall then tender him the following oath: You do solmnly swear (or affirm, as the case may be) that you are qualified, according to the law regulating elections in this territory, to vote for the officer (or officers, as the case may be) for whom you now propose to vote. And the clerks shall enter the names of all persons on the poll lists who are challenged and take such oath, and shall enter opposite their names the word sworn, in brackets, and such records shall be presumptive evidence of such vote.

Ballot-box.

Sec. 16. There shall be provided and kept by the judges of each election precinct (at the expense of the county) a suitable ballot-box, with a lock and key.

Ballot-box, how kept and examined.

Sec. 17. There shall be an opening in the lid of such box of no larger size than shall be sufficient to admit a single folded ballot. Before opening the

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polls the ballot box shall be carefully examined by the judges of election that nothing shall remain therein; it shall then be locked and the key thereof delivered to one of the judges, to be designated by the board, and shall not be opened during the election, except in the manner and for the purpose hereinafter mentioned.

Comparing poll lists.

Sec. 18. Upon the adjournment of the polls the clerks shall, in the presence of the judges, compare their respective poll lists, compute and set down the number of votes, and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists shall be made in all respects to correspond.

Poll-book placed in ballot box.

Sec. 19. The ballot box shall be opened and the poll-books placed therein, and such box shall then be locked, and a covering with a seal placed on the lid of such box so as to entirely cover the same, and the key delivered to one of the judges and the box to another, to be designated by the board.

Care of box and key.

Sec. 20. The judge having the key shall keep it in his own possession, and deliver it again to the board at the next opening of the polls; and the person having the care of the box shall carefully keep it without opening it or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll-books taken out, and the box again locked.

When cavass to begin, same to be public.

Sec. 21. As soon as the polls of the election shall be finally closed, the judges shall immediately proceed to cavass the vote given at such election, and the canvass shall be public, and shall continue until completed.

Manner of canvassing.

Sec. 22. The canvass shall commence by a comparison of the poll lists from the commencement, and the correction of any mistakes that may be found

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therein, until they shall be found to agree; the box shall then be opened and the ballots found therein counted by the judges, unopened, except to ascertain whether each ballot is single; and if two or more shall be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed, and if, on a comparison of the count with the poll lists and the appearance of such ballots, a majority of the judges shall be of the opinion that the ballots thus tolded together were voted by one elector, they shall be rejected.

Proceeding if ballots exceed the number of votes cast.

Sec. 23. If the ballots in the box should be found to exeed in number the whole number of votes in the poll lists, they shall be placed in the box (after being purged after the manner above stated) and one of the judges shall publicly draw out and destroy therefrom so many ballots unopened as shall be equal to such excess.

Manner and form of declaring result of the election.

Sec. 24. The ballots and the poll lists agreeing, or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll-books the names of every person voted for, and, at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, such entry to be made, as near as circumstances will admit, in the following form, to-wit:

At an election held at the house of A B, in the township or precinct of ——, in the county of ——, and the territory of Montana, on the —— day of ———, A. D. 18—, the following named persons received the number of votes annexed to their respective names for the following described offices, to-wit:

A B had ——— votes for delegate to congress.

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J D had ——— votes for member of the legislative council.

R L had ——— votes for member of the house of representatives.

(And in like manner for any other person voted for.)

Certified by us. Attest:

A B and C D, } Clerks of Election. M N, O P, Q R, } Judges of Election.

Return of one of the poll-books to the clerk of the county commissioners.

Sec. 25. The judges of election shall then enclose and seal one of the poll-books, under cover, directed to the clerk of the board of county commissioners of the county in which such election was held, and the packet thus sealed shall, within three days from the closing of the polls, be conveyed by one of the judges or clerks of election, to be determined by lot, to the post office nearest the house in which said election for such precinct was held, and register and mail the same to the clerk of the board of county commissioners, and the other poll-books, together with the ballot box, shall be deposited with one of the judges of election, to be determined by lot, if not otherwise agreed upon, and the said poll-book shall be open to the inspection of any elector at any time thereafter who may desire to examine the same.

Penalty for neglecting to return poll-book.

Sec. 26. If any judge or clerk, after being selected by the judges of election to convey the poll-books of such election to the post office nearest the house in which said election was held, and mail the same, as provided for in section 25 of this act, shall fail, refuse or neglect to convey and mail the said poll-books, safe with seal unbroken, he shall for every such offense, when convicted thereof, pay the sum of five hundred dollars, and be imprisoned in the county jail for a period not exceeding three years, said fine to be recovered in a civil action in the dis-

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trict court in the name of the county commissioners.

Canvass of the votes cast in the county.

Sec. 27. After the fifteenth day after the close of any election held under the provisions of this act, or sooner if all the returns shall be received, the chairman of the board of county commissioners shall, taking to his assistance the probate judge and a justice of the peace of the county, or any county officer, proceed to open the returns and make abstracts of the votes. Such abstracts of votes for delegates to congress shall be on one sheet. The abstract of votes for members of the legislative assembly shall be on another sheet, and the abstracts of votes for territorial and district officers shall be on another sheet, and the abstract of votes for county and township officers shall be on another sheet. And it shall be the duty of the clerk of said board of county commissioners immediately to make up a certificate of election to each of the persons having the highest numberof votes for members of the legislative assembly, county and township officers, respectively, and to deliver such certificates to the persons entitled to them, upon their making application to the clerk at his office: *Provided*, that when a tie shall exist between two or more persons for any district or county office, the clerk of the board of county commissioners shall immediately give notice of another election, giving at least ten days notice. And it shall be the duty of the clerk of the board of county commissioners of such county, on the receipt of the returns of any general or special election, to make out his certificate, stating therein the compensation to which the judges and clerks of the election shall be entitled for their services, and lay the same before the county commissioners at their next session, and the board of commissioners shall order the compensation aforesaid to be paid out of the county treasury.

Duty of clerk in case of a tie.

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Sec. 28. The clerk of the board of county commissioners, immediately after making out the abstract of votes given in his county, shall make a copy of each of said abstracts, and transmit the same by mail as a registered package to the auditor of the territory at the seat of government, and it shall be the duty of the United States marshal and treasurer of the territory in the presence of the governor to proceed within thirty days after the election, and sooner if the returns be received, to canvass the votes given for delegates to congress: *Provided*, that in case the United States marshal and treasurer can not agree as to the number of votes that two or more persons are entitled to for delegate to congress, then in that event the governor shall decide who has the highest number of votes, and shall issue a certificate of election to such person under his hand and the seal of the territory, countersigned by the secretary. In case there shall be no choice by reason of two or more persons having an equal and highest number of votes, then the governor shall by proclamation order a new election.

Territorial board of canvassers.

In case of disagreement between the marshal and treasurer.

Sec. 29. If the returns of the election of any county in this territory shall not be received at the office of the auditor of the territory within thirty days after the election, the said auditor shall forthwith send a messenger to the clerk of the county commissioners, whose duty it shall be to furnish the said messenger with a copy of such returns, and the messenger shall be paid out of the county treasury of said county the sum of twenty cents per mile for each mile he shall necessarily travel in going to and returning from said county, and if any officer or officers, whose duty it is to forward returns of any election to the board of county commissioners, auditor or other officer of the township, county, district, or territory, shall omit, neglect or refuse to perform such duty as is by law required, he shall be liable

Duty of auditor when returns not received.

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to pay, in an action brought therefor, in any proper court, the expenses of sending for and procuring such returns or poll-books as he is by law required to forward, and he shall be entitled to no exemption whatever on such judgment, and he or they shall moreover be deemed guilty of a misdemeanor, and being thereof convicted, shall be fined not less than one hundred nor more than five hundred dollars, and shall be imprisoned not less than one day nor more than six months in the county jail, and it is hereby made the duty of the canvassing board to send for and procure such returns before canvassing the votes if the same can be procured.

Sec. 30. Any person who shall receive a certificate of his election shall be at liberty to resign such office though he may not have entered upon the duties thereof, or taken the requisite oath of office. And when any vacancy shall happen in the office of member of council or house or representatives by death, resignation or otherwise, and a session of the legislature is to take place before the next regular election, the governor shall issue a writ of election directed to the clerk or clerks of the county or counties in which such vacancy shall happen, commanding him to notify the judges in his county or counties to hold a special election to fill such vacancy or vacancies at a time appointed by the governor.

Vacancies, how filled.

Sec. 31. Where two or more counties are united in a council or representative district, or for the election of any officer, the clerk of the board of the county commissioners of the county or counties last established shall, on the twentieth day after the election, unless a previous time is agreed upon, attend at the office of the clerk of the board of the senior county, and together they shall canvass the votes according to law, and the certificate of election shall be signed by such clerk and be delivered to the proper person

Canvass of votes for district officers.

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at the office of the clerk of the senior county, and, for the purpose of this act, the county first created shall be deemed the senior county, and when all the counties were created by the same act, the first named therein shall be deemed the senior county.

Pay of judges and clerks of election.

Sec. 32. There shall be allowed out of the county treasury of each county to the several judges and clerks of election, when engaged in any election, three dollars per diem; to the person appointed to post up notices of election, and to the judge or clerk conveying poll books to the post office and mailing the same, and to the clerks of the board of county commissioners for attending at another county to canvass votes, the sum of fifteen cents per mile for each mile necessarily traveled in going and returning, to be paid out of the county treasury.

Penalty for corruptly violating this act.

Sec. 33. If any judge or clerk of election, or any other person in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this act, he shall pay to the county a sum not less than fifty or more than one thousand dollars, and be imprisoned in the county jail until such fine is paid, the same to be recovered by civil action in the name of the county commissioners of the proper county, for the use of the comon schools of said county.

Term of office of officers elected under this act.

Sec. 34. The term of office of all district, county and township officers elected under the provisions of this act, shall begin on the third Monday in December next ensuing after the election, and the term of office of all officers elected at the general election in August, 1874, shall hold and extend until the third Monday in December next ensuing the expiration of their present term of office, and all county, district and township officers elected at the August election in the year 1875, shall hold their respective offices until the third Monday in December, 1878: *Provided*, That the term of office

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of the county treasurer shall begin on the first Monday in March, next ensuing their election, and the county commissioners of the several counties are hereby authorized and empowered to fill any and all vacancies in said office, created by the expiration of the term of office of any incumbent, or from any other cause: *Provided*, That when any officer who by law is required to give bonds before entering upon, or when entering upon his said office, and whose term of office is hereby prolonged, shall, before entering upon that portion of his term hereby prolonged, give a new undertaking in the form and to be approved as is now provided by law.

Who deemed elected.

Sec. 35. In all elections the person having the highest number of votes for any office shall be deemed to have been elected.

Mis-spelling, &c., to be disregarded.

Sec. 36. In counting the votes the judges of election shall disregard mis-spelling or abbreviation of the names of candidates for the offices, if it can be ascertained from such votes for whom they were intended.

Sec. 37. All contests of county and township officers shall be tried in the proper county, and when an elector shall wish to contest such an election he shall file with the clerk of the board of county commissioners, within ten days after such person shall have been declared elected, a statement in writing, specifying the grounds of contest, verified by affidavit, and such clerk shall issue to the contestant a notice to appear at time and place specified in the notice, before the district court, which notice, with a copy of such statement, shall be delivered to the sheriff, who shall, within five days, serve the same on the contestor by delivering to him a copy of such notice and statement, or by leaving such copy at his usual place of residence. That in all contested election cases, or rights thereto existing, or which

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may hereafter occur, when the said notice shall not have been served and given in compliance herewith, the same shall be a bar to any and all persons making such contests and to all actions and rights of action thereto. Of contested elections.

Sec. 38. The district judge at the time specified in the notice (and it shall appear by the sheriff's returns that notice has been duly served on the contestor), shall proceed to try such contest- Each party shall be entitled to subpœnas, and subpœnas *duces tecum*, as in ordinary cases in law, and the district court shall hear and determine in such manner as shall carry into effect the expressed will of a majority of the legal voters, as indicated by their votes for such office, not regarding technicalities or error in spelling the name of any candidate for such office, and the clerk of said court shall issue a certificate to the person declared to be elected by said court, which shall be presumptive evidence of the right of said person to hold such office, and he shall be entitled to enter upon and hold said office until such decision shall be reversed on appeal. Trial of contested election cases.

Sec. 39. Resignations may be made as follows: First, by all officers elected to the legislative assembly, to the governor of the territory. Second, by all township and county officers, to the county commissioners of their respective counties. Third, by all other officers holding office by appointment, to the body or officers that appointed them. Resignations.

Sec. 40. Every office shall become vacant on the happening of any of the following events before the expiration of the term of such office: First, ceasing to be an inhabitant of the territory, county or township for which he shall have been elected or appointed, or within which the duties of his office are to be discharged. Second, his conviction of any infamous crime, or of any offense involving the violation of his official oath. Third, his refusal or neg- When office deemed vacant.

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lect to take the oath of office, or to execute his official bond, or deposit such oath or bond within the time prescribed by law.

Sec. 41. The governor shall also declare vacant the office of every official required by law to execute an official bond, whan a judgment shall be obtained against such officer for a breach of the condition of such bond.

Filling of vacancies in the legislature.

Sec. 42. When a vacancy shall occur during a recess of the legislature, in any office which the legislature is authorized to fill by election, or which the governor, subject to confirmation of legislative council, is authorized to fill, the governor, unless it be otherwise specially provided, may appoint some suitable person to perform the duties of such office.

Appointment of county or township officers to fill vacancies.

Sec. 43. When at any time there shall be in any of the county or township offices no officer duly authorized to execute the duties thereof, some suitable person shall be appointed by the county commissioners to perform the duties of said office. *Provided*, that if there is no board of county commissioners in any county the governor may, on notice of such fact, create such board.

Person appointed to qualify.

Sec. 44. Every person so appointed, in pursuance of the last two preceding sections, shall, before proceeding to execute the duties assigned them, qualify in the same manner as required by law of the officers in whose place they shall be appointed, and they shall continue to exercise and perform the duties of the office to which they shall be appointed, until such vacancy shall be regularly supplied as provided by law.

County commissioners to provide poll books.

Sec. 45. That in addition to the duties already assigned them, it shall be the duty of the board of county commissioners of each county to cause to be provided for the several election precincts in each county, poll books, after the forms hereinafter prescribed.

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Clerk of county commissioners to forward poll-books to judges.

Sec. 46. That it shall be the duty of the clerk of said board to forward by mail, as a registered package, to one of the judges of election so appointed, in each precinct, at least ten days prior to any general election, and five days prior to any special election, two copies of such blank poll books for the use of the judges of such township or precinct.

Ballot-box and key, how kept and delivered to election officers.

Sec. 47. The judge having the key shall keep it in his own possession, and deliver it again to the board at the next opening of the polls; and the person having care of the box shall carefully keep it without opening it or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll-books taken out, and the box again locked. That the judges having the custody of the key, box, and poll-books, who shall refuse or neglect to comply with the requirments of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than five hundred dollars, nor more than ten thousand dollars, or imprisonment not less than three months, or more than one year, or by such fine and imprisonment as a court of competent jurisdiction may see fit to impose.

Form of poll-books and oath of election officers.

Sec. 48. Such poll-books and oaths shall be in the following form:

TERRITORY OF MONTANA, }
County of———, } ss.

We, ——— and ———, do solemnly swear, that we will perform the duty of judges of the election, acording to law, and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse, in conducting the same, so help us God.

——— ———
——— ——— } Judges.

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Subscribed and sworn to before me, ———, this ——— day of ———, A. D. 18—.

TERRITORY OF MONTANA, } ss.
County of ———, }

We,——— and ———, do solemnly swear, that we will faithfully perform the duties of clerks of the election, according to law, and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse, in conducting the same, so help us God.

——— ———
——— ——— } Clerks.

Subscribed and sworn to before me, this —— day of ——, 18—.

POLL-BOOKS OF PRECINCT NO.—.

NO.	NAMES.	NO.	NAMES.

At an election held at ———, in precinct No. —, in the county of ———, in the territory of Montana, the following named persons received the number of votes annexed to their respective names, for the following offices, to-wit:

Certified to by us.

——— ———
——— ——— } Judges.
——— ———

——— ———
——— ——— } Clerks.
——— ———

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Election precincts not to be established in unorganized county or in Indian reservation.

Sec. 49. No officer of this territory, nor of any county within this territory, shall establish a precinct within the limits of any county not fully organized, or at any Indian agency, or at any trading post in the Indian country, or on any Indian reservation whatever; and any county or territorial officer violating the provisions of this section shall be guilty of a misdemeanor and fined in a court of competent jurisdiction in a sum not less than five hundred dollars, or more than two thousand dollars.

Penalty for violating the preceding section.

Sec. 50. Any county or territorial officer, whose duty it is, under existing laws, to open returns and make abstracts of votes, who shall receive and count the returns from any pretended election precinct which may be established in contravention of the preceding section of this act, shall be guilty of felony, and be punished by fine not less than one thousand nor more than five thousand dollars, and be imprisoned in the territorial penitentiary not less than one nor more than five years.

Penalty for any judge, clerk or county commissioner violating this act.

Sec. 51. Any judge, clerk or county commissioner, who shall fail, refuse or neglect, to perform any of the duties imposed upon him by the provisions of this act, shall be fined in any sum not exceeding five hundred dollars, and imprisonment in the county jail for a period not exceeding three years, or both such fine and imprisonment, at the discretion of the court, unless, for good cause shown, both such fine and imprisonment may be remitted by the court.

Penalty for stuffing ballot box or falsely counting votes.

Sec. 52. Any person guilty of stuffing any ballot box either by false bottoms or in any manner whatever before the votes are counted or while being counted, and any judge of an election who shall knowingly count or read off the votes falsely, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the territorial prison for each and every offense so convicted, for a term not less than one nor more than five years.

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Penalty for unlawfully attempting or obtaining possession of any ballot box, ballot, pool-book, tally-list, etc.

Sec. 53. If any person or persons, at any election held by virtue of any law of this territory, shall, either by force, fraud, stealth, or otherwise, destroy, obtain, or attempt to obtain possession of any ballot box, or any ballot or ballots, therein deposited, or any poll-book, tally-list, or other articles kept and used by the judges and clerks in conducting such election, while the voting at such election is going on during the day of election, or either before or after the ballots have been taken out of the box and counted by the judges of election, shall be deemed guilty of a felony, and upon conviction thereof, be imprisoned in the territorial prison for each and every offense so convicted of, for a term of not less than one nor more than five years.

Penalties for voting or abetting another to vote under a false name.

Sec. 54. Any person who shall vote or attempt to vote in the name of any other person, other than his own, and any person who causes, aids, or abets any person so to vote or attempt to so vote, shall, upon conviction thereof, be punished for each offense by imprisonment in the territorial prison not less than one year nor more than five years.

Penalty for fraudulently voting.

Sec. 55. If any person not having the legal qualifications of a voter shall fraudulently vote, or shall fraudulently attempt to vote at any election, such person on conviction thereof, shall be punished by imprisonment in the territorial prison for a term not less than one nor more than five years.

Penalty, an elector voting more than once at any election, or knowingly voting more than one ballot.

Sec. 56. If any elector shall vote more than once at any election, or shall knowingly hand in two or more tickets folded together, or shall attempt to vote more than once at the same election, he shall, on conviction thereof, be punished by imprisonment in the territorial prison for a term not less than one year nor more than five years.

Penalty for threatening or menancing voter at or during election.

Sec. 57. If any person shall directly or indirectly use any threats, menance, or force, or any corrupt means or device at or previous to, or during any

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election held pursuant to any election laws of this territory, towards any elector, to hinder or deter him from voting at such election, or shall attempt by any means whatever to awe, restrain, hinder, or disturb any elector in the free exercise of the right of suffrage, he shall, upon conviction thereof, be fined in any sum not less than fifty nor exceeding five hundred dollars.

Penalty for false swearing at election.

Sec. 58. Any person wilfully, corruptly, or falsely swearing or affirming before the board of judges of election, or any member thereof, or the clerk, while in session or in holding an election, shall be deemed guilty of perjury, and on conviction shall be punished. If any member of any board of judges, or clerks, of election, or any other person in any manner concerned in conducting an election, shall wilfully and corruptly violate any of the provisions of this act, the penalty for which is not herein prescribed, or be guilty of any fraud, deceit, or abuse in the execution of the duties of his office, the penalty for which is not herein prescribed, he shall be punished for each and every offense whereof he shall be convicted, by imprisonment in the territorial prison for a term not less than one nor more than five years; or shall pay a fine of not less than fifty nor more than five hundred dollars, in the discretion of the court.

Penalty for the violation of this act by any election officer.

Acts repealed.

Sec. 59. That all acts and parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 60. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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ELECTIONS.

AN ACT to prevent the purchase and sale of votes.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Votes not to be sold or purchased.

Sec. 1. That no person shall purchase, or attempt to purchase, either with money or any other valuable thing, the vote of any elector of the territory of Montana.

Sec. 2. That no elector of the territory of Montana shall sell, or attempt to sell, either for money or any other valuable thing, his vote to any person whatever.

Fixes the only purposes for which candidates may contribute money for electioneering.

Sec. 3. That no person who shall hereafter be a candidate for any office whatever in the territory of Montana, shall pay or contribute, either directly or indirectly, any money or other valuable thing, or knowingly allow it to be done by others for him, either for the nomination, election, or appointment thereto, except for necessary expenses, as follows, to-wit: First, for printing and traveling expenses. Second, for the dissemination of information to the public. Third, for political meetings, demonstrations and conventions. The foregoing expenses may be incurred either in person or through other individuals or committees of organizations duly constituted for the purpose, but nothing contained in this act shall be so construed as to authorize the payment of money or other valuable thing for the vote or influence of any elector of this territory, either directly or indirectly, at any election or nominating convention, or for any corrupt purpose whatever, incident to an election; and all officers hereafter elected or appointed, shall, before entering upon the duties of their respective offices, take and subscribe the following oath:

Oath of officers.

"I do solmnly swear (or affirm) that I will support, protect and defend the constitution of the

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United States, and the organic act of the territory of Montana, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this territory, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

Same, how to be administered.

The foregoing oath shall be administered to the members of the council and house of representatives in the hall of their respective houses, by a judge of the supreme court, and filed by him in the office of the secretary of the territory.

In the case of all other territorial officers, this oath shall be administered by the governor, and filed in the office of the secretary of the territory. In the case of all other officers this oath shall be administered by some person authorized by law to administer oaths, and shall be filed in the office of the clerk of the county in which said officer was elected.

Penalty for violation of act.

Sec. 4. Every person violating either section one or two of this act, or both, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than one hundred dollars, nor more than five hundred dollars, and to imprisonment in the penitentiary for not less than three months, nor more than one year, or both or either, at the discretion of the court.

Penalty for false swearing.

Sec. 5. Any person refusing to take the oath prescribed in section three of this act, shall forfeit his office; and any person who shall be convicted

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of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be punishable therefor as provided by law, and be forever disqualified from holding any office of trust or profit within this territory.

Duty of district attorney.

Sec. 6. That it is hereby made the duty of the district attorney, for that district in which an offense against any of the provisions of this act may have been committed, to bring an action in the name of the territory of Montana, against any person or persons so offending.

Repealing clause.

Sec. 7. All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved February 8, 1876.

ELECTIONS.

AN ACT providing for the election of county assessors.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

One assessor to be elected in each county.

Sec. 1. There shall be elected in each of the counties of this territory at the next general election, and biennially thereafter, one assessor, who shall hold his office for the term of two years and until his successor is elected and qualified: *Provided*, That all assessors elected at the first general election after the passage of this act, shall not take office until after the expiration of the term of the present incumbents in their respective counties.

Assessor to give bond.

Sec. 2. Each county assessor shall, before entering upon the duties of his office, give a bond in a sum not less than two thousand dollars, or more, if the county commissioners so elect, with two or more

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sufficient sureties, conditioned for the faithful performance of his duties according to law and to the satisfaction of the county commissioners, and shall take and subscribe an oath of office, which shall be endorsed on such bond. The bond must be approved by the commissioners, and shall be deposited with the county clerk. Said assessor shall give the bond and take the oath of office herein required, on or before the second Monday after his election, and if the county clerk receive no notice of the qualification of such assessor on or before the said second Monday after the election, the office shall be declared vacant; or if there be a failure to elect by the people, or if there shall be at any time, or from any cause, a vacancy in the office of assessor, or if said assessor having qualified shall fail to proceed to the discharge of the duties of his office before the first day of February in each year, the county commissioners shall forthwith appoint one suitable person, resident of the county, to discharge the duties of county assessor, who shall thereupon take the necessary oath of office, give the same bond, perform the same duties, be entitled to the same fees, and subject to the same liabilities as in case of assessors elected by the people.

Bond approved by commissioners and deposited with clerk.

If assessor do not qualify, office deemed vacant, when.

Assessor failing to discharge his duties, commissioners may appoint suitable person in his stead.

Sec. 3. Chapter 86 of the codified statutes, "An Act to divide the counties of this territory into revenue districts, and provide for the election of officers therein," and all acts and parts of acts conflicting with the provisions of this act, be, and the same are hereby, repealed.

Acts repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

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ELECTION — RAILROADS.

WHEREAS, There has passed the legislative assembly of theterritory of Montana "An Act encouraging the Northern Pacific railroad in the territory of Montana," as also "An Act to enable the people of the territory of Montana to aid in the construction of a railroad;" and

WHEREAS, The proposition to aid in the construction of each of said railroads are provided in each of said enactments to be submitted to a vote of the people of said territory. Therefore,

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That at the election provided for in each of said enactments, to-wit: "An Act encouraging the Northern Pacific railroad in the territory of Montana," and "An Act to enable the people of the territory of Montana to aid in the construction of a railroad," there shall be provided at each voting precinct in the territory of Montana at the election to be held at the times provided in each of said enactments, two separate ballot boxes, in each of which each elector who shall be entitled to vote at said election and shall vote thereat, shall have the right to cast one ballot in each of said ballot boxs, so provided as aforesaid. One of the said boxes shall contain all the votes cast at said election under and in pursuance of the provisions of "An Act encouraging the Northern Pacific railroad in the territory of Montana," and the other of said ballot boxes shall contain all the votes cast at said election under and in pursuance of the provisions of "An Act to enable the people of the territory of Montana to aid in the construction of a railroad," and the ballots so cast shall be kept separate and shall be canvassed by the judges of election in the several

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voting precincts separately, and upon separate tally-lists; and the returns made by the judges of election at the precincts aforesaid shall be made upon separate papers, and kept and returned separately and certified to separately as provided by law, and shall be canvassed separately by the several boards of canvassers required by law to canvass the same in a manner provided therefor in the two several enactments hereinbefore referred to.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11th, 1876.

FEES.

AN ACT prescribing the fees of the clerks of the district courts in the several counties of the territory.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Fees of clerk of district court established.

Sec. 1. The clerks of the district courts of the several judicial districts of this territory shall be entitled to receive for their services as such clerks the fees hereinafter prescribed, and none other: For a docket fee on the commencement of an action, to include the filing of all papers, all necessary register and journal entries, all indexes and entries of attorneys, two dollars and fifty cents. For filing transcript on appeal from probate or justice's court, and all accompanying papers, including all necessary register and journal entries relating thereto, and all indexes and entries of attorneys, two dollars. For filing and entering transcript of judgment from probate court or justice's court, and docketing and indexing the same, one dollar. For issuing each summons, writ of attachment, venire, or other writ not herein specially provided for, seventy-five cents. For

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issuing each subpœna, to include all the names mentioned in the precipe therefor unless otherwise directed by the party requiring the same, for the first name, fifty cents; for each additional name, ten cents. For issuing each writ of injunction, *quo warranto* or mandamus, one dollar and fifty (cents). For issuing each warrant in a criminal action, each execution, writ of *habeas corpus*, *certiorari*, or *procedendo*, or *dedimus* to take depositions, one dollar. For each attachment for defaulting juror or witness, fifty cents. For each copy of a decree or order of sale, per folio of one hundred words, for each folio, twenty cents. For swearing and empanelling a jury, to include all necessary orders, or entries of record, or other services relating thereto, in a civil action, one dollar and fifty cents; in a criminal action, three dollars. For swearing and empanelling each grand jury, to include necessary orders, entries of record, and other services, relating thereto, one dollar and fifty cents. For swearing each witness, officer, or person other than a juror or grand juror, on the trial of a cause or other proceeding in court, and all orders and entries relating thereto, twenty-five cents. For entering each order, ruling or proceeding of court not herein otherwise specially provided for, to include all necessary entries and indices relating to the same: *Provided*, however, that all orders, entries, and proceedings, on the hearing or trial of a cause, coming under the same heading and relating to the same subject matter be charged for as one order, and not separately—for each folio of one hundred words, twenty cents. For rendering accounts of jurors and witnesses to the board of county commissioners, for each juror or witness, ten cents. For filing each pleading or other paper not provided for in the first three items of this fee bill, to include all necessary entries and indexes relating thereto, twenty cents. For taking

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and approving each bond, seventy-five cents. For entering default, whether of one or more defendants: *Provided*, That but one entry of default shall be charged for in any case, one dollar. For entering each cause on both bar and judge's calendar at each term of court, twenty-five cents. For arraignment of each prisoner, fifty cents. For receiving and entering each verdict of a jury, fifty cents. For entering each final judgment, seventy-five cents. For copies of judgment and all necessary orders and rulings to be filed with judgment roll, for each folio of one hundred words, twenty cents. For making and certifying judgment roll, one dollar. For entering each decree, for each folio of one hundred words, twenty cents. For each docketing judgment or docketing deficiency on return of order of sale or execution unsatisfied, fifty cents. For taking affidavit to any instrument of writing, and affixing jurat thereto, except as herein otherwise provided, twenty-five cents. For certificate and seal, except as herein otherwise provided, one dollar. For copy of any pleading, paper or record, to be paid for by party demanding same, for each folio of one hundred words, twenty cents. For taking acknowledgment of conveyance or other instrument of writing, whether of one or more parties, one dollar. For taking and recording declaration of intention to become a citizen, with certified copy thereof, and including all necessary affidavits, filings, indexes, and entries, two dollars. For issuing final naturalization papers, including all necessary affidavits, filings, indexes and entries, three dollars. For making report in each case referred to clerk, one dollar and fifty cents. For making transcript on appeal to the supreme court, including all indexes, for each folio of one hundred words, twenty cents. For keeping accounts of jurors and witnesses, making and certifying affidavits to same,

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for each juror or witness, thirty cents. For searching the files and records in his office, but in no case to be charged against parties or attorneys in any cause pending, twenty-five cents. For entering of record all indictments, recognizances, or other papers required by law to be recorded, and not in this act provided for, for each folio of one hundred words, twenty cents.

Fees above established to include all services.

Sec. 2. The fees above provided for in civil and criminal cases shall be held to include compensation to said clerks for all other services of every kind required of said clerks by law to be performed in the cases in which said fees are paid, and said clerks shall not demand or receive any fees for any services in such cases other than the fees in this act prescribed, but they shall perform all the duties required of them by law, without any other fees or compensation than that herein specifically mentioned.

Clerk demanding or receiving other fees than in this act given, or neglecting duty, guilty of misdemeanor.

Sec. 3. Any clerk of the district court demanding or receiving for his services any other or greater fees than those in this act specifically mentioned, or demanding or receiving fees as such clerk for any other services than those for which fees are in this act provided specifically, or refusing or neglecting to perform any services required of him by law, on payment of the fees for such services, or without pay, where no fee is in this act provided, shall be deemer guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. And offenses under this act may be presented by indictment, and the district court of the proper county shall have jurisdiction thereof. And in addition to the above penalty, the said clerk shall be adjudged, upon motion filed in the district court of the proper county, to pay the party aggrieved any illegal fee or fees collected of him by said clerk.

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Fees taxed as costs, and paid by party.

Sec. 4. Except in criminal cases, and other cases expressly provided for by law, the above fees shall be paid by the party for whom the services are rendered. And said fees in civil cases shall be taxed as costs in the manner provided by law.

Acts repealed.

Sec. 5. All acts and parts of acts giving any fees or compensation to clerks of district courts, other than in this act prescribed, and all acts and parts of acts in conflict with this act, are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

FEES.

AN ACT requiring witness's and juror's fees to be paid into the county treasury.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Witness and jurors' fees paid into the county treasury.

Sec. 1. That it shall be, and it is hereby made the duty of the respective clerks of the district courts, probate judges, and justices of the peace, sheriffs or other officers, to pay into the county treasury of their county all money by them received for witness and jury fees, and remaining unclaimed for three months after the receipt of the same.

Statement of fees delivered to treasurer.

Sec. 2. The said clerk, probate judge, or justice of the peace, sheriff or other officer, shall, at the time of making such payment, deliver to the treasurer a statement of the case, the names of the witnesses or jurors, and the amount each one is entitled to receive. And such officer so paying said fees into the treasury, shall notify the clerk of the court, probate judge or magistrate having the custody of any judgment on which the same are paid, in writing, of the payment thereof; and such clerk,

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probate judge or magistrate shall endorse the same as paid upon the judgment so in his charge.

Fees received by treasurer, how kept.

Sec. 3. The treasurer of said county shall keep the money thus received separate from the general fund of the county for one year, if not paid out to the person entitled to receive the same before said time, upon the certificate of the district clerk, probate judge, or justice of the peace, sheriff or other officer, as the case may be, after which the same shall be credited to the general county fund.

Receipts to be taken for money paid into the treasury, and receipts filed, &c.

Sec. 4. Any officer paying money into the county treasury under the provisions of this act shall take a duplicate receipt therefor, one of which he shall file in his office, and the other he shall file with the clerk of the board of county commissioners, who shall charge the amount thereof to the treasurer.

Penalty for not paying over fees as directed under this act.

Sec. 5. Any failure to pay over to the county treasurer, witness or jury fees, as contemplated by this act, shall subject the offender to a fine for each offense, of not less than one hundred dollars nor more then five hundred dollars, to be collected in any court having jurisdiction, and disposed of as other fines.

Acts repealed.

Sec. 6. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 7. This act to take affect and be in force from and after its passage.

Approved February 11th, 1876.

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FIREMEN.

AN ACT concerning firemen.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Fireman not exempt from jury duty or road tax if in arrears to his company.

Sec. 1. That from and after the passage of this act no member of any organized fire company in the territory shall be exempt from serving as a juror or from the payment of a poll road tax, unless he can furnish the court, when called as a juror, or the collector of the county, when required to pay his taxes, a certificate from the secretary of the company of which he is a member that he is not in arrears of dues or fines to such fire company.

Secretary of fire company not to issue certificate to fireman, unless arrears paid.

Sec. 2. Any secretary of any fire company in the territory who shall issue such certificate to any member who has not paid up all dues and fines to the company of which he is a member, shall be deemed guilty of a misdemeanor, and shall, upon conviction be fined in any sum not exceeding fifty dollars.

Sec. 3. This act shall be in force from and after its passage.

Approved February 11th, 1876.

FIRE WARDENS.

AN ACT to provide for fire wardens in the territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

County commissioners to appoint fire-wardens, upon petition.

Sec. 1. That the county commissioners of every county in this territory shall, upon petition from ten residents of any unincorporated city, town or village in their respective counties, appoint a fire warden for said city, town or village, as the case may be, whose duty it shall be to examine all chimneys,

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stoves, stove-pipes, ovens, furnaces, boilers, and appurtenances thereto belonging.

Duty of fire warden on complaint of citizen.

Sec. 2. When any chimney, stove, stove-pipe, oven, furnace, boiler or appurtenance thereto belonging, are defective, out of repair, or so placed in any building as to endanger it, or any other building by communicating fire thereto, the fire warden, on complaint of any citizen either orally or in writing, on examination or other satisfactory proof, shall give written notice to the owner or occupant of such building or premises and if he neglects for the space of three days to remove or repair the same effectually, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than one hundred dollars.

If owner, after notice, neglect to repair flue, &c., guilty of misdemeanor.

Fines collected under this act paid into school fund.

All fines collected under the provisions of this act shall be paid into the county treasury for the use and benefit of the school district in which the person fined shall reside, and it shall be the duty of the court imposing said fine to certify to the county treasurer the school district in which the person fined shall reside.

Approved February 2, 1876.

GAME.

AN ACT to protect game, fur-bearing animals, and fish in the territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Killing of large game unlawful during certain months of each year.

Sec. 1. That any person or persons who shall wilfully shoot or otherwise kill or cause to be killed any buffalo, moose, elk, black-tailed deer, white-tailed deer, mountain sheep, Rocky mountain goat, or antelope, between the first day of February and the tenth day of August, of each year, shall be

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deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offence committed. Penalty for violation.

Sec. 2. That any person or persons who shall wilfully shoot or otherwise kill or cause to be killed at any time, any of the animals mentioned in section one of this act, for the purpose of procuring the hide only and shall not make any use of the carcass thereof, for food, for himself or themselves, or for the purpose of selling the same to others for food, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars for each offence committed. Killing animals mentioned in section 1, for their hides *only*, unlawful. Penalty for violation.

Sec. 3. That any person or persons who shall trap, shoot or otherwise kill or cause to be killed any beaver, otter, martin, or fisher, between the first day of April, and the first day of October, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offense committed, and any person who shall, at any time, trap, shoot, or otherwise kill any beaver in any field, or in any other enclosure in this territory, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to the penalties above mentioned in this section; that nothing contained in this section shall prevent owners of land from catching or killing beaver on their own lands. Killing or trapping fur-bearing animals unlawful during certain months. Penalty for violation.

Sec. 4. That any person or persons who shall wilfully shoot or otherwise kill, or cause to be killed, any grouse, prairie-chicken, pheasant, fool-hen, partridge or quail, between the first day of March and the tenth day of August, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than Killing game birds unlawful during certain months. Penalty for violation.

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fifty dollars, nor more than two hundred and fifty dollars for each offense committed.

Killing wild-geese or ducks, unlawful during certain months.

Sec. 5. That any person or persons who shall wilfully shoot, or otherwise kill or cause to be killed, any of the varieties of wild geese or ducks, which at any season of the year are to be found within the territory, between the 15th day of May and the 10th day of August, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars for each offense committed.

Penalty.

Destruction of singing birds unlawful.

Sec. 6. That for the next four years from May 1st, A. D. 1876, it shall be unlawful for any person or persons to wilfully kill or cause to be killed, or destroyed in any manner whatever, any robin, meadow-lark, thrush, goldfinch, flicker, or yellow-hammer, black-bird, oriole, snow-bird, or any other of the small birds commonly known as singing birds, within this territory, and upon conviction thereof, any person or persons so convicted shall be fined in any sum not less than five dollars nor more than twenty-five dollars for each offense committed.

Penalty.

Possession of dead birds, *prima facia* evidence of guilt.

Sec. 7. That the possession of the dead bodies, or any part thereof, of any animals or birds mentioned in this act, by any person or persons, shall be taken as *prima facia* evidence that such person or persons are guilty of killing the same.

Prescribes the lawful way of catching fish.

Sec. 8. That a fishing tackle consisting of a rod or pole, line and hook, or spear, shall be the only lawful way that fish can be taken in any of the streams of this territory; it shall, however, be lawful to use a seine in the Missouri and Jefferson rivers, and in the Beaver-Head, up to the Beaver-Head rock, and in North Boulder creek for ten miles above its mouth.

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Bait for fish not to be poisoned.

Sec. 9. That said hook shall not be baited with any drug or substance poisonous to any kind of fish.

Unlawful to make dams or traps for catching fish.

Sec. 10. That it shall be unlawful for any person in the territory of Montana to make any dams or use any fish-traps or any similar means of catching fish, or to use any drug, poison, or giant-power, or explosive compound intending to catch, kill or destroy any species of fish.

Penalty for violating sections 8, 9, and 10.

Sec. 11. Any person or persons, company or corporations offending against sections eight, nine and ten of this act, or either of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offense committed.

Penalty for stage companies or other common carrier transporting fish unlawfully caught.

Sec. 12. Any person, or persons, stage or express company, or association of persons, who shall receive for transportation or carriage, or shall sell or offer for sale, fish that have been caught, taken or killed contrary to the provisions of this act, knowing, or having reason to believe, that such fish were so illegally caught, taken or killed, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars for each lot or shipment of fish so transported or carried.

Fines under act, how disposed of.

Sec. 13. That all fines mentioned in any section of this act, shall be recovered, with costs of suit, in civil actions, in the name of the territory of Montana, before any court having competent jurisdiction. One half of all fines so collected shall be paid into the county treasury of the county in which the offense was committed, for the benefit of the common schools of such county, and one half shall be paid to the person or persons making complaint of the commission of such offense. All such fines and

No stay of execution; offender may be imprisoned.

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costs shall be collected with stay of execution, and such defendant or defendants may, by order of the court, be confined in the county jail until such fines and costs are paid.

Grand Jury to inquire into violations of this act.

Sec. 14. That it shall be the duty of the grand jury to diligently seek out and investigate all infractions of any provision or provisions of this act (except such cases and infractions as may have been already tried before some court having competent jurisdiction) and upon due proof of the infraction of any of the said provisions they shall proceed to indict such party or parties according to law, and it is hereby made the duty of the court to call the attention of the grand jury to the provisions of this act. And the district court shall have concurrent jurisdiction with the probate court of all offenses committed under the provisions of this act.

Duty of district court to call attention of grand jury to this act.

Repealing clause.

Sec. 15. That any act to provide against the killing of game and catching of fish, approved May 2d, 1873, be, and the same is hereby repealed.

Sec. 16. That this act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

INSANE.

AN ACT in relation to the management of insane persons in the territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Insane person may be removed from asylum in certain cases at expense of the territory.

Sec. 1. That hereafter whenever the friends or relatives of any inmate of the Montana insane asylum shall apply for assistance or permission to remove any patient in said asylum from thence to his or her friends or relatives in any state or territory, the governor of this territory is hereby authorized and empowered to have such insane person conveyed

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to his or her relatives or friends, at the expense of the territory of Montana, if he shall deem such action conducive to the interests of this territory and the welfare of the insane person.

Auditor to draw warrant to pay expenses of removal.

Sec. 2. That the territorial auditor be, and he is hereby, authorized and instructed to draw warrants on the territorial treasury in favor of the governor of this territory for such amounts and at such times as may be required for the purpose mentioned in the first section of this act.

Acts repealed.

Sec. 3. All acts and parts of acts conflicting with the provisions of this act, be, and the same are hereby, repealed.

Sec. 4. This act to take effect and be in force from and after its passage.

Approved February 8, 1876.

INSANE—GUARDIANS.

AN ACT to provide for the appointment of guardians of persons insane.

Be it Enacted by the Legislative Asembly of the Territory of Montana:

Probate courts may appoint guardians for insane and *non compos* persons.

Sec. 1. That the probate courts in the several counties of this territory shall have jurisdiction to appoint guardian for the person and state of persons adjudged insane or *non compos mentis*, and all of the provisions of chapter 28 of the codified statutes of Montana, approved January 12, 1872, relating to the subject of guardian and ward, so far as the same are applicable, shall apply to, and be in force in cases of guardianship contemplated in this act.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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INTOXICATING LIQUORS.

AN ACT to prohibit the traffic in intoxicating liquors on general election days.

Be it Enacted by the Legislative Assembly of the Territory of Montana.

Unlawful to sell or give away intoxicating liquors on general election day.

Sec. 1. That hereafter it shall be unlawful for any person, either as principal, agent, or otherwise, on any general election day to sell, barter, give or furnish, or cause to be furnished to any person or persons whomsoever, any spirituous or malt liquors, wine or cider, or any intoxicating liquors or intoxicating drinks of any kind or character.

Penalty for violation of section 1.

Sec. 2. That each and every person violating any of the provisions of this act, shall, for each offense, upon conviction thereof, be punished by a fine not less than ten dollars, nor more than two hundred and fifty dollars.

Act not to include sales of liquors for mechanical or medical purposes.

Sec. 3. The provisions of this act shall not be construed to include druggists or other persons who shall in good faith sell or dispose of the articles hereinbefore mentioned for medicinal or mechanical purposes only.

Sec. 4. This shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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LIVE STOCK.

AN ACT to repeal an act entitled "An Act concerning the management of live stock, and the better to protect the interests of stock-growers in the territory of Montana," approved February 13, 1874.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Repeals act concerning management of live stock, approved Feb. 13, 1874.

Sec. 1. That an act entitled "An Act concerning the management of live stock and the better to protect the interests of the stock-growers of the territory of Montana," approved February 13, 1874, be, and the same is hereby, repealed.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved January 21, 1876.

LIVE STOCK.

AN Act concerning the management of live stock, and to protect the interests of stock-growers in the territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Division of counties into stock districts.

Sec. 1. The county commissioners of the several counties of this territory may, at their first regular meeting after the passage of this act, divide their respective counties into districts of not less than three and not more than twenty districts. Said commissioners shall have due regard to the natural boundaries, and take into consideration the convenience of the resident stock owners thereof.

Election of district stock board.

Sec. 2. The resident stock owners may meet on the last Saturday in May of each year, at some convenient place in the several districts, and proceed to elect three resident stock owners, who shall

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constitute a stock board. The person receiving the highest number of all votes cast shall preside at the meetings of the said board. The said board shall, on the same day, elect a suitable person to act as clerk to the said stock board.

Round-ups in the month of June. Duty of stock board.

Sec. 3. It shall be the duty of the several stock boards in all the organized stock districts throughout the territory to proceed, in and during the month of June in each year, to round up all the stock in their district, dairy cows, work oxen, and cattle under the direct care of a herder excepted: *Provided*, That when two districts join they shall not round up at one and the same time. The stock-board shall designate the most suitable and convenient points in the district where stock shall be rounded up, and shall take charge of all the stray cattle, horses or mules found in their respective districts, and safely keep the same in a suitable inclosure, provided with feed and water sufficient for all the estrays therein: *Provided, further*, That when any stock board shall have notice of the ownership of any brand or brands of cattle that are or may be in their district, such stock shall not be taken in custody as estrays.

What shall be deemed estrays.

Sec. 4. All animals may be declared estrays by the stock boards of the several counties, except those that have a duly recorded brand in the general recorder's office in the territory, and those whose owners are known to said stock board; also except sucking colts and calves following their mothers.

Description of all estrays to be made and kept.

Sec. 5. It shall be the duty of the stock board, immediately after they shall have finished rounding up in their district, to assist the clerk in such district to write out an accurate description of all marks and brands on all the estrays in their custody, and shall also describe as accurately as possible all estray horses and mules not branded: *Provided*, The stock board may declare as estrays all cattle in

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the round-up, in their district, either branded or otherwise, that are unclaimed at said round-up and whose owners are not known.

Duty of clerk of board.

Sec. 6. It shall be the duty of the clerk to attend in person all the round-ups in his district, and shall assist the board in making out an accurate description of all cattle, horses and mules which have been declared estrays by the stock-board, and shall record the marks and brands found on them in a suitable book kept for that purpose, and the same to be at all times subject to the inspection of the public. It shall be the duty of the said clerk to examine carefully all recorded brands and marks, and should he find any recorded brands or marks to correspond with the brands or marks on any animal or animals recorded by him in the district record book of marks and brands, it shall be the duty of the said clerk, without delay, to give notice by letter to the owner of such recorded brand or marks. The said notice shall state the number and description of such stock, and for such notice the clerk shall receive the sum of one dollar from the person receiving such notice or owning such stock. It shall further be the duty of said clerk to give notice to the clerks of adjoining districts, by letter, describing marks, brands, etc., on all cattle, horses and mules. And when horses or mules are not branded, then to give as accurate description as possible of each animal that has been declared and held as estrays by the stock board of his district. Said clerk shall not be entitled to pay for the same, but may charge and receive one dollar for each certified copy of all brands and marks and descriptions.

Adjoining districts notified of estrays.

Estrays, how kept and disposed of.

Sec. 7. All stock that has been declared estray, and recorded as such, shall be kept in a suitable inclosure, as provided for in section 3 of this act; and for and in consideration of the safe-keeping, and

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good care of all such estray stock, the stock board, or a suitable person appointed by them as their agent, shall receive the sum of two dollars per head. *Provided*, That calves and sucking colts are not counted, and not subject to a charge as other stock. The said sum of two dollars shall be paid by parties who establish a legal right to any of said estrays. The said sum, together with the amount due the clerk of the district, as provided for in section 6 of this act, shall be paid before delivery of said stock; and in case that the said charges are not paid within thirty days from the date of establishing ownership to said stock, the same shall be sold to the highest bidder for cash, and the residue, if any, shall be paid to the order of the legal owner of said stock. The president of the stock-board shall post or cause to be posted, at least ten days previous to date of sale, in not less than three public places in his district, written or printed bills of this form, to-wit:

Notice is hereby given, that the stock board of ——— district will sell, on the ——— day of———, at ———, to the highest bidder for cash, the following described stock: (Here describe the stock to be sold.) Sale to commence at 12 o'clock M. of said day.

Records of sales of estrays.

It shall also be the duty of the president of the stock board to send by mail or otherwise, three days prior to date of sale, at least three copies of the foregoing notice to each of the adjoining districts. The proceeds of such sale shall be applied by the stock board: First, in payment for keeping said stock; second, in payment for all necessary provisions used by persons attending and assisting in the district round-up, as provided for in section 5 of this act, and the residue shall be paid by the said board into the school funds of the round-up district.

Proceeds of sales of estrays.

Penalty for driving stock off range.

Sec. 8. Any person or persons who shall drive any cattle, horses, or mules farther from their natural range than the nearest corral, provided they can

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have the use of such corral, shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace in the territory of Montana, shall be fined in any sum not exceeding one hundred dollars, to be collected as other fines are, and may also, at the discretion of said justice of the peace, be imprisoned in the county jail not exceeding one hundred days. All fines collected under the provisions of this act shall be paid into the school fund of the county in which said stock belongs.

Sec. 9. All acts and parts of acts in conflict with this act are hereby repealed. Acts repealed.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

MEDICAL PROFESSION.

AN ACT to protect the citizens of the territory of Montana from empiricism and elevate the standing of the medical profession.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That it shall be unlawful for any person within the limits of said territory, who has not attended two full courses of instruction and graduated at some school of medicine, either of the United States or some foreign country, or who cannot produce a certificate of qualification from some state or county medical society, and is not a person of good moral character, to practice medicine in any of its departments for reward or compensation, or attempt to practice medicine, or prescribe medicine or medicines for reward or compensation, for any sick person within the said territory of Montana: *Provided*, that in all cases when any person has been continuously engaged in the practice of medicine for a Unlawful for non-graduated physicians to practice. Exception made of physician who has practiced a term of years.

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period of ten or more years, he shall be considered to have complied with the provisions of this act. And that where persons have been in continuous practice of medicine for five years or more they shall be allowed two years in which to comply with such provisions.

Penalty for violation of sec. 1 of this act.

Sec. 2. Any person living in the territory of Montana, or any person coming into said territory, who shall practice medicine in any of its departments, or perform or attempt to perform any surgical operation upon any person within the limits of said territory, in violation of section one of this act shall, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars, and for each subsequent violation of this act, shall, in addition to the above fine, be imprisoned in the county jail of the county in which said offense shall have been committed, for the term of thirty days, and in no case wherein this act shall have been violated shall any person so violating receive any compensation for services rendered: *Provided*, that nothing herein contained shall in any way be construed to apply to any person practicing dentistry.

Dentists excepted from operations of act.

When act takes effect.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 3, 1876.

MINOR HEIRS.

AN ACT for the relief of minor heirs, in certain cases.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Minors may sue by attorney or *next* friend, and without prepayment of costs in certain cases.

Sec. 1. That any minor heir or heirs, either resident or non-resident of this territory, may commence and prosecute any suit or suits against any executor or administrator, and sureties upon the bond of such executor or administrator, by attor-

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ney or *next friend*, and without the pre-payment of costs, or security therefor; but such minor shall not be relieved from liability to pay such costs, and the same shall be a lien upon any judgment on property he may recover in such action, and it is hereby made the duty of the officers of the courts to issue all writs and serve the same without demanding or receiving their fees in advance.

Affidavit when minor sues under this act.

Sec. 2. That to entitle any such minor heir so to sue, it shall appear by the affidavit of his or her attorney or *next friend*, that such heir has a good cause of action and is unable to pay the costs in money or to procure security therefor.

Conflicting act repealed.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

When act takes effect.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

NOTARIES PUBLIC.

AN ACT concerning notaries public.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Appointed by governor with consent of the legislative council.

Sec. 1. The governor shall nominate, and by and with the consent of the legislative council, may appoint one or more persons as notaries public for the territory of Montana, for the term of three years, unless sooner removed by the governor.

Powers vested in notaries.

Sec. 2. Each notary is invested with the power, and shall perform the duties, which pertain to that office by the custom and law of merchants.

Notary to keep record of his doings.

Sec. 3. Every notary public is required to keep a true record of all notices given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to

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whom the same were given or sent, with a copy of the instrument in relation to which the notice is served, and of the notice itself.

Credit due the records and acts of notaries.

Sec. 4. Such records, and copies of them, authenticated by the hand and seal of the notary, his protests, and all his official acts as notary, and his seal, shall receive such credit and faith as they are entitled to by the law and custom of merchants.

Of the notarial seal.

Sec. 5. Each notary public is required to have a seal, on which are to be engraved the words "notarial seal," and "Montana," with his sir-name at length, and at least the initials of his Christian name.

Power to administer oaths and take acknowledgments.

Sec. 6. Notaries public are empowered to administer oaths, and to take acknowledgments and proof of deeds, required or permitted by the law of this territory, to be recorded or acknowledged.

Duty of notary resigning or removing from territory.

Sec. 7. It shall be the duty of every notary public, on his resignation or removal from office, and in case of his death, of his legal representative, to forthwith deposit the record, named in section three of this act, in the office of the clerk of the district court of the county in which he was resident, and on failure to do so, the person so offending shall be liable in damages to any person injured thereby.

Removal from territory taken as resignation.

Sec. 8. If a notary removes his residence from the territory, such removal shall be taken as his resignation.

Duty of clerk of district court, when notaries' records are deposited in his office.

Sec. 9. It is the duty of each clerk aforesaid, to receive and safely keep all such records and papers of the notary in the case above named, and to give attested copies of them under the seal of his court, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same affect as if certified by the notary.

Bond of notary.

Sec. 10. Every applicant for the commission of notary public shall give bond to the territory of Montana in the penal sum of one thousand dollars,

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with two good and sufficient sureties, to be approved by the clerk of the county in which said applicant resides, conditioned for the true and faithful performance of the duties of his office, and upon the filing of such bond in the office of the governor of the territory of Montana, the said governor may issue to said applicant a commission as notary public, for which commission a fee of one dollar shall be paid into the territorial treasury.

Commission of notary.

Sec. 11. Any notary public exercising the duties of his office after the expiration of his commission, or when otherwise disqualified, or appending his official signature to documents when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of one hundred dollars for each offense; to be recovered before any court having competent jurisdiction; and shall also be removed from office by the governor.

Penalty for notary exercising duties of office before his qualification or after his commission expires.

Sec. 12. That in case of a demand of payment of any promissory note, bill of exchange, or other commercial paper, by a notary public, and a refusal by the maker, drawer, or acceptor, as the case may be, the notary making said demand may inform the indorser, or any party to be charged, if in the same town or township, by notice deposited in the nearest post office to the party to be charged, on the day of demand, and no other notice shall be necessary to charge said party.

Of the notice by the notary, of non-payment of commercial paper.

Sec. 13. Every notary public whose commission is unexpired at the date of the passage of this act, shall be empowered to act as notary for the entire territory of Montana, as fully as though he had been commissioned under this act.

Notary may act for the entire territory.

Sec. 14. It shall be sufficient for any duly qualified notary public to certify an oath or affidavit, to be used in this territory, in any of the courts, or in any manner whatever, to append his signature to the jurat, and add thereto the words notary public; and

When official signature of notary sufficient without an impress of seal.

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such subscription shall be sufficient without the impression of his seal, or other or further addition.

Protest of the notary *prima facia* evidence.

Sec. 15. The instrument of protest of any notary public appointed and qualified under the laws of this territory, or the laws of any other state or territory in the United States, accompanying any bill of exchange or promissory note which has been protested by such notary for non-acceptance or non-payment, shall be received in all the courts of this territory as *prima facia* evidence of the facts therein certified, but any party may contradict by other evidence any certificate.

Power to compel attendance of witnesses in taking depositions.

Sec. 16. In taking depositions he shall have the same power to compel the attendance of witnesses for refusing to testify, which may be vested by law in justices of the peace, and all sheriffs and constables are required to serve and return all processes issued by such notaries, in taking depositions.

Act repealed.

Sec. 17. That chapter forty-seven of the codified statutes, and all acts and parts of acts in conflict with this act, are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved February 8, 1876.

PRINTING.

AN ACT concerning printing.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

A triumvirate established to control all public printing.

Sec. 1. That the governor, president of the council, and speaker of the house of representatives, or a majority of them, are hereby authorized and directed, immediately after the passage of this act, to contract with such person or persons as they may deem proper in the interest of the territory, for all printing of whatever nature, for the use of the

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legislative assembly, the auditor's and treasurer's offices of the territory, and the superintendent of public instruction, payment for the printing of which is not provided for by the United States government; the said contract to be made in writing and signed by the contracting parties: *Provided*, That no printing shall be contracted for, under the provisions of this act, unless the same is expressly authorized by law.

Term of contract.

Sec. 2. That said contract shall be made and continued in force for the period of two years from the date of its execution.

No printing contracted for paid by the United States.

Sec. 3. That the party contracting to do such printing shall print all bills or other documents ordered by either house of the legislative assembly to be printed, the printing of which is not provided for by the laws of the United States, in the order in which they shall be numbered and delivered to him, and shall return them in like manner, unless otherwise specially ordered.

Return of printing done for the legislature.

Sec. 4. That all bills, reports and other documents which may be specially ordered printed by either house of the legislative assembly, shall be printed and returned to the house which shall have ordered them within three days after the delivery of the copy of the same to the party contracting to do the printing under the provisions of this law, unless, on motion, a longer time be given.

Printing reports of officers.

Sec. 5. That all officers of the several departments of the territory who by existing or future laws, may be required to make reports to the governor or legislative assembly at any session thereof, payment for the printing of which is not provided for by the laws of the United States, shall cause the same to be printed by such party contracting to do the printing as aforesaid, for the use of the legislative assembly, and shall present the same to that body within the first week of each session.

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Printing of laws ordered by the triumvirate.

Sec. 6. That each person contracting to do said printing, shall publish in a newspaper, to be designated in the contract aforesaid, within sixty days after the adjournment of each legislative assembly, such laws and resolutions as the governor, president of the council, and speaker of the house of representatives may designate and direct to be published, and it is hereby made the duty of the secretary of the territory to deliver to such person so contracting to do such printing within twenty days after the adjournment *sine die* of both houses of the legislative assembly, certified copies of such laws as the said governor, president of the council, and speaker of the house may so designate to be published.

Propose to fine the secretary if he refuse to clerk for the triumvirate.

Sec. 7. That in case the said secretary shall fail to perform the duties prescribed in the preceding section, he shall be deemed guilty of a misdemeanor, and shall pay a fine of fifty dollars for each and every day he shall have failed to perform the duties hereinbefore described; and upon complaint of any citizen of the territory before any court of competent jurisdiction, it is hereby made the duty of the district attorney of the district in which said offense may be committed, to enforce the provisions of this act, and collect the fine herein imposed in the same manner as other fines are enforced; and when any fines are collected under the provisions of this act, the same shall be paid into the school fund of the county in which said fine shall have been collected.

Subscription to the official journal.

Sec. 8. That the said party contracting to do the printing as aforesaid, shall deliver to the auditor of the territory copies of the journal or newspaper containing any of the laws and resolutions of the legislative assembly which shall have been printed as directed by the said governor, president of the council, and speaker of the house of representatives, immediately after the same shall have been published therein; and immedately thereafter the said auditor

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shall cause copies of the said designated newspaper containing the laws and resolutions as aforesaid, to be sent to the judges, clerks of courts and all territorial, district, county and township officers; and it shall be their duty to preserve all copies of said newspaper so received carefully in their respective offices; that not exceeding one hundred copies of each journal containing such laws shall be paid for at the rates herein prescribed. Auditor to distribute the journal.

Sec. 9. That said person or persons contracting to do the printing as aforesaid, shall receive ten dollars for every hundred copies of the newspaper containing the published laws and resolutions as aforesaid, and so delivered to the auditor of the territory, as directed by the preceding section, in addition to the remuneration hereinafter provided. Each copy of the newspaper so furnished shall contain not less than three printed columns of the laws and resolutions as aforesaid. Pay per hundred for the paper containing laws.

Sec. 10. That all printing for the territory, or for any department of the territorial government, performed by the party contracting to do the printing as aforesaid, shall be executed on the following terms: For the printing of bills and other matter for the use of and ordered by the legislative assembly, and reports printed in pamphlet form, the rates paid by the United States government, under the laws thereof, and under the rules prescribed by the treasury department of the United States. Rates of printing for the territory.

For printing the laws and resolutions of the legislative assembly designated as aforesaid, in the newspaper as aforesaid, seventy-five cents for every folio of one hundred words.

The following named blanks shall be printed by the party contracting as aforesaid at the following rates:

Blank licenses with stubs, bound, eight dollars per thousand copies.

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Tax receipts with stubs, bound, seven dollars per thousand copies.

Blanks for statistics, nine dollars per thousand copies.

For publishing all notices and legal advertisements pertaining to the several departments of the territorial government: For every folio of one hundred words two dollars shall be paid for the first insertion thereof, and fifty cents per folio of one hundred words for each subsequent insertion required by law to be made.

Party contracting to render his account and get his pay.

Sec. 11. That said party contracting to do the territorial printing as aforesaid shall render once in each month to the territorial auditor an itemized account, under oath, of all the printing and advertising done for the territory, or either house of the legislative assembly, or for any officers or department of the territorial government. And the said auditor and the governor shall examine the same, and if they find it to be correct and in accordance with the provisions of this act, the auditor shall draw his warrant on the territorial treasurer for the payment of the same.

The triumvirate to contract for all printing for the counties.

Sec. 12. That it is also made the duty of the said governor, president of the council, and speaker of the house of representatives, in like manner to contract with such person or persons as they may deem proper, in the interest of the several counties in the territory, to do and perform all the printing for which said counties may be chargeable, including legal advertisements, blanks and official publications, at the following rates:

For every folio of one hundred words, two dollars shall be paid for the first insertion thereof, and fifty cents per folio of one hundred words for each subsequent insertion required by law to be made.

For rule and figure work, two dollars and fifty cents per folio of one hundred words shall be paid

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for the first insertion, and one dollar per folio of one hundred words for each subsequent insertion required by law to be made.

That the printed blanks, required by law to be printed for the several counties, shall be furnished at the following rates:

Notices to tax payers, seven dollars and fifty cents per thousand copies.

Assessors blanks, thirty dollars per thousand copies.

Special poor tax receipts with stubs, bound, twenty dollars per thousand copies.

Road tax receipts with stubs, bound, twenty dollars per thousand copies.

County warrants with stubs, bound, thirty dollars per thousand copies.

Contract with resident for county printing.

Sec. 13. That the said governor, president of the council, and speaker of the house of representatives shall select and contract with a person or persons resident in and publishing a newspaper in each of the counties to do the printing in said county of which he is a resident; or in case no paper is published in any county, or no publisher in any county will contract under the terms and provisions of this act to do the printing of said county, then the governor, president of the council, and speaker of the house of representatives, or a majority of them, shall contract with the proprietor of a newspaper having a reasonably large circulation in said county, to do all the printing of every description, for which said county may be chargeable, at the rates recited in this act, which shall be paid for in warrants upon the contingent fund of said county or counties, and all legal advertisements of whatever character required by law to be published shall be printed and paid for at the rates provided for in section twelve of this act.

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Affidavit of printer as to legal advertisements.

Sec. 14. It shall be the duty of the party contracting to do the printing of any county, upon the payment of the printer's fees, in case of any legal advertisement, to file in the clerk's office of the court having jurisdiction his affidavit, with a copy of said advertisement ordered by said court to be published, appended, together with a receipt of the printer's fees, paid by the party at whose instance or for whose benefit such advertisement shall have been made, to be collected as other costs; which affidavit shall state the date of the papers in which said advertisement appeared, and the number of times the same was inserted, and be filed and recorded by the clerk as the legal evidence of the publication of the same, and no other evidence of such publication shall be required or allowed.

Monopoly for the paper selected by the triumvirate.

Sec. 15. That the contract to do the printing for each of the said counties in the territory aforesaid shall be for the same period prescribed by the second section of this act. Each person so contracted with shall publish in a newspaper designated by the governor, president of the council, and speaker of the house of representatives all the legal and judicial advertisements of said county, or required to be done in said county, of whatever character; and after such contract as aforesaid and notice thereof to the county commissioners, probate judge, recorder, clerks of courts, and sheriff of said county, every publication or advertisement in any other paper than the one so designated shall, during the term of such contract, be null and void for any legal purpose.

Party having county printing, to render an account to commissioners.

Sec. 16. That any party who shall have contracted to do the printing in any county in this territory, under the provisions of this act, shall, every three months, make out and present to the board of county commissioners of such county, an itemized account under oath, of all the printing done in each quarter which is lawfully chargeable against such

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county. The board of county commissioners shall examine the same, and if they find said account correct, and in accordance with the provisions of this act and the contract made thereunder, they shall allow the same and draw their warrant in favor of said contracting party upon the contingent fund of such county.

Parties having contract to file bonds.

Sec. 17. That such person contracting to do the territorial printing shall make and file in the office of the territorial auditor a good and sufficient bond running to the people of the territory of Montana, with two or more securities, to be approved by said auditor, which said bond shall be in the sum of five thousand dollars, and conditioned for the faithful performance of his said contract and the execution of all printing so to be done by him upon good material and in a good and workmanlike manner; and each of said persons receiving contracts to do printing in any of the several counties of this territory, shall in like manner make, execute and file with the county clerk of such county, a good and sufficient bond in the sum of two thousand dollars, with two or more sureties, to be approved by said clerk, with like conditions as in the case of the person contracting to do the territorial printing.

Term "folio" defined.

Sec. 18. The term folio in this act shall mean one hundred words, counting each figure as one word. When there are over fifty and under one hundred words, they shall be counted as one folio, but a less number than fifty words shall not be counted as one folio, except when the whole statute, notice, advertisemet or order contain less than fifty words.

When other journal designated.

Sec. 19. That if any newspaper that has been designated under the provisons of this act, in which territorial or county printing is to be done, shall be destroyed, suspended, or otherwise fail to fulfil any contract made for printing in pursuance of the

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provisions of this act, then, in that case, it shall be the duty of the governor, the president of the council, and the speaker of the house of representatives, or a majority of them, to at once contract with some other publisher for such public printing.

All other printing provided for.

Sec. 20. All other blanks or printing that may be necessary for the territory or any of the several counties of said territory, under existing or any future laws, and not herein provided for, shall be furnished and paid for at the same rates as herein provided for similar blanks, or printing.

Acts repealed.

Sec. 21. That all acts, or parts of acts, in conflict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 22. This act shall take effect and be in force from and after its passage.

Approved January 21, 1876.

PRIVATE SEALS.

AN ACT to abolish private seals.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Private seals on conveyances not required.

Sec. 1. All conveyances and instruments hereafter executed, which by the common law or the statutes of this territory are required to be executed under seal, shall be as effectual without such seal to all intents and purposes whatsoever, as if the same had a seal attached thereto; and the same shall be interpreted as if the same were sealed, but this act shall not apply to municipal or other corporations which by law are required to attest their action under seal.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 3d, 1876.

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QUARTZ CLAIMS.

AN ACT in relation to quartz claims.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Discoverer of quartz vein, to file declaratory statement, with recorder of the county.

Sec. 1. Any person or persons who shall hereafter discover any mining claim upon any vein or lode bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, shall, within twenty days thereafter, make and file for record in the office of the recorder of the county in which said discovery is made, a declaratory statement thereof, in writing, on oath, before some person authorized by law to administer oaths, describing such claim in the manner provided by the laws of the United States.

What necessary to enable same to be admitted to record.

Sec. 2. That in order to entitle any person or persons to record in the county recorder's office of the proper county, any lead, lode, or ledge, there shall first be discovered on said lode, lead, or ledge, a vein or crevice of quartz, or ore with at least one well defined wall.

Width of quartz lead, lode or ledge.

Sec. 3. Claims on any lead, lode, or ledge, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, hereafter discovered, shall consist of not more than fifteen hundred linear feet along the lead, lode, or ledge, and not more than three hundred feet, and not less than twenty-five feet on each side from the center of said lead, lode, or ledge, for working purposes. *Provided*, that the provisions of this act shall not be so construed as to include claims recorded prior to the passage of this act.

Not to apply to claims heretofore recorded.

Width of claims heretofore discovered and recorded.

Sec. 4. All lode claims heretofore discovered and recorded pursuant to the law, and the possessory title to which shall have been preserved according to law, shall entitle the owner or owners thereof to surface ground along the course of the vein three hundred feet on each side from the center of said vein: *Provided*, that such width shall not be permit-

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ted to interfere with any vested or possessory rights of any person or persons, corporation or corporations, which have intervened and have been preserved to the time of the taking effect of this act, but parties desiring to avail themselves hereof shall so signify by a record which shall show that they so elect, or if they so desire, they may limit the surface ground on each side of the center of the vein to any width not less than twenty-five feet.

Provided shall not affect vested rights.

Punishment for removal of stake or monument from mining claims.

Sec. 5. Any person who shall remove any stake or monument placed on any mining claim, or who shall obliterate, deface or destroy any notice placed thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Acts repealed.

Sec. 6. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 7. This act to take affect and be in force from and after its passage.

Approved February 11th, 1876.

RAILROAD—NORTH AND SOUTH.

AN ACT to enable the people of the territory of Montana to aid in the construction of a railroad.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That for the purpose of aiding in the construction of a railroad to run from Franklin, in the territory of Idaho, to and into the territory of Montana by way of the mouth of the Big Hole river to White Tail Deer Creek, the sum of one million one hundred and fifty thousand dollars is hereby contributed by the territory of Montana, to be paid in the coupon bonds of said territory, in the

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manner and on the terms provided in this act: *Provided*, that none of said bonds shall be executed by the territory, or delivered to any corporation, person or persons, for any purpose whatever, except upon the terms and in the manner provided in this act.

Sec. 2. Such railroad shall be built from the said town of Franklin, along and over the nearest and most practical route by the way of the mouth of the Big Hole river to the mouth of White Tail Deer creek, in the said territory of Montana, and shall be built of good and substantial material, and of a gauge not less than three feet in width, and not more than four feet eight and one-half inches in width. Such railroad shall be finished so that a locomotive and a train of cars can pass over the same from said town of Franklin to the terminus aforesaid within two years from the time that any contract shall be entered into and executed by any company, corporation, or association, under and in accordance with the provisions of this act.

Sec. 3. The bonds that may be issued under the provisions of this act, shall be coupon bonds of the territory of Montana, payable at the city of New York, in the state of New York, twenty years from the date of their issue, and redeemable at any time after ten years from their date, at the pleasure of said territory. Said bonds shall bear interest at the rate of seven per centum per annum, shall be dated on the day of issuance and delivery thereof, and shall draw interest from the date thereof. There shall be attached to each bond a coupon for each installment of interest thereon, and the interest shall be due and payable on the first of January of each year at said city of New York. Said bonds shall be signed by the treasurer and auditor of said Montana territory, and shall be countersigned by the secretary of said territory, and when thus issued shall be deliv-

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ered by the treasurer of said territory to the person or persons, company, or corporation, or association of persons contracting to construct said railroad, in accordance with the provisions of this act, or to his, its, or their order.

Sec. 4. The bonds herein provided for to be issued by the territory of Montana, shall be procured by the auditor of said territory, and he shall have the same engraved at the lowest possible cost, which shall be paid out of the general fund of said territory, by warrant drawn by said auditor upon the territorial treasury. Said bonds shall be of the denomination of one thousand dollars.

Sec. 5. The railroad herein provided for shall be constructed by the corporation or association of individuals undertaking the same, in two sections, as follows: The first section to extend from the town of Franklin, aforesaid, and terminate on the line of said road at the present southern boundary line of Montana territory. The second section of said road shall commence at the northern terminus of the first section of said road as herein designated, and shall extend to the terminus of said road at the mouth of the White Tail Deer creek aforesaid, and shall be known as section No. 2.

Sec. 6. The corporation or association of individuals who shall accept the terms of this act, and undertake the construction of said railroad under the provisions hereof, shall not be entitled to receive any of the bonds of said territory herein provided for until they shall have constructed and placed in good running order, with full equipment of engines and roiling stock, section number one of said road. And when the said corporation or association of individuals, undertaking the construction of said line of road, shall have completed said section number one and equipped the same with sufficient engines and rolling stock, and shall desire to receive a por-

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tion of the aid hereby guaranteed, they shall make application for the same to the governor of the territory in writing, who, upon receiving such written application, shall at once designate three commissioners, who shall be citizens of the territory of Montana, disinterested, impartial men, whose duty it shall be to go, at the expense of said railroad corporation or association of individuals, and examine and measure that portion of said line of railroad which may be completed, and make report in writing, under oath, of the result of their examination; and if they shall find on such examination that said road, as constructed, complies with the requirements of this act, they shall so state in their report to the governor.

Sec. 7. Upon receiving the report of said commissioners, made to the governor under oath, that the said corporation or association of individuals have complied with the provisions of this act, and have completed section number one of said road, and equipped the same as required by this act, the governor shall immediately thereafter make his order on the territorial auditor for one-half of the bonds by this act authorized to be issued, and shall deliver the same to the agent or representative of said railroad corporation or association of individuals, which order shall be accompanied by a copy of the report of said commissioners, and which order and copy of report shall be delivered to the auditor, who shall preserve the same in the files of his office. The order of the governor upon the auditor shall direct him to execute and deliver to the treasurer of the territory the amount of the bonds herein provided for. The bonds so delivered by said auditor to said treasurer of the territory shall, after thirty days notice, to be published by said treasurer in two or more newspapers published in this territory, be by the latter officer delivered over to

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the said corporation or its authorized agent, the said territorial treasurer taking duplicate receipts therefor, one of which shall be preserved by him and the other shall be delivered to the auditor, who shall preserve the same in the files of his office.

Sec. 8. And thereafter, when the said corporation or association of individuals shall have completed the second section of said road, they may apply to the governor for the remaining half of the aid hereby given in bonds as herein provided, and such application shall be made in the manner provided in the preceding section, and commissioners shall be appointed and first make a report as is above provided. Their duties shall be the same and their report made in the same manner, and as provided for in the preceding section of this act; and that thereupon there shall be issued and delivered to the said corporation, in the same manner as heretofore provided, bonds as herein provided, equal in amount to one-half of the aid by this act given.

Sec. 9. The county commissioners of the several counties, after having received notice from the secretary of the territory of the passage of this act, as hereinafter provided, shall, and it is hereby made the duty of said county commissioners, on the third day of April, A. D. 1876, to cause to be submitted to the qualified electors of their respective counties the propositions herein contained for their approval or rejection; and if a majority of the electors of the territory, at such elections, shall by their votes approve of this act, such fact shall be entered at large upon the journals of their respective counties.

Sec. 10. The county commissioners of the several counties shall give notice of the election herein provided for by publication in one or more newspapers published within such county at least twenty days before the election; or, if no paper be published therein, the same shall be published in one

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or more newspapers published in the territory most likely to give general notice.

Sec. 11. At the election herein provided for, the ballots or votes shall contain the words, "north and south railroad aid, yes;" or "north and south railroad, no." and the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and the liability of officers thereof, and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges of such election shall truly certify and forward the result of such election, together with the poll-books and ballots so cast, to the board of county commissioners to the county seat of said county, within five days after the same shall have been counted and certified; and the said county commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election, to the secretary of the territory; and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act, he or they shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit and pay a fine not exceeding $10,000, and be imprisoned in the county jail not less than six nor more than ten months.

Sec. 12. The votes that are cast upon the proposition herein contained, after the same shall have been abstracted by the county commissioners of the several counties, and such abstracts shall have been forwarded to the secretary as aforesaid, shall be canvassed in the same manner that the vote for delegate to congress is canvassed under the existing laws.

Sec. 13. If a majority of the votes cast upon the question hereby submitted, shall approve of this act, it shall be the duty of the secretary of the territory to announce such fact through one or more news-

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papers published in the territory, and thenceforward this act shall be a contract of binding force upon the territory of Montana, and also upon the corporation or association of individuals that may accept the same, as herein provided, for the fulfillment of which contract, in every particular, on its part, the good faith and credit of the people of Montana territory is pledged.

Sec. 14. The county commissioners of the several counties shall, from time to time, levy a special tax, as may be apportioned by the auditor, in the same manner as other taxes are now levied, sufficient in amount to pay the annual interest that may from time to time accrue upon the bonds so issued, and also to provide for the final payment of said bonds.

Sec. 15. That the following persons and their associates, to-wit: Royal Bassett, J. Richardson, Sidney Dillon, or some of them and their associates, for the purposes herein named, having first incorporated themselves under the laws of Montana territory, shall have thirty days after the passage of this act shall have been announced by the secretary of the territory, within which to determine their acceptance of the terms of this act; their acceptance of which shall be in writing, and shall be filed by the proper officer of said corporation in the office of the secretary of the territory before the expiration of the said thirty days, and in case the said corporation shall fail to file their written acceptance of this contract with the secretary as aforesaid, within thirty days after the passage of this act, this act shall be deemed void and of no effect.

Sec. 16. That in case this act shall be ratified and confirmed by the electors of this territory, in the manner hereinbefore provided, and the said corporation shall file its acceptance of the terms of this act, as above provided, the said corporation shall

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construct and fully equip with all the necessary rolling stock, at least one hundred miles of the said road before the first of January, A. D. 1877, and in case of a failure so to do, all rights of such corporation, under the provisions of this act, shall be deemed and held forfeited, and it shall have no further claim upon this territory for any bonds herein provided for.

Sec. 17. That nothing herein contained shall be construed to inhibit the territory from causing *ad valorem* taxes to be levied upon the property of said railroad company within said territory, as taxes are levied upon other property in this territory. But all taxes so levied shall be paid by said railroad corporation into the territorial treasury, and no portion thereof shall belong to any county in said territory, anything in the laws now in force to the contrary notwithstanding.

Sec. 18. The commissioners in this act shall make their report, and take and subscribe their oath thereto, within the limits of this territory, and if the same is false, they shall be deemed guilty of wilful and corrupt perjury, and shall be punished as provided by law therefor.

Sec. 19. That nothing herein contained shall prevent the said corporation from building if they so elect, an independent line of railroad from the town of Ogden in the territory of Utah, or the town of Corinne in the territory of Utah, immediately or ultimately, but the provisions of this act shall only apply to such portions of said road as shall be constructed from a point north of an east and west line, running through the said town of Franklin.

Sec. 20. That the legislative assembly of this territory, and the legislative authority of any state to be formed out of such territory shall, notwithstanding anything herein contained, have authority to regulate the rates of fare and freight the same as

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is provided in sections twenty-two and twenty-three of an act entitled "an act to provide for the formation of railroad corporations in the territory of Montana," passed in 1873.

Sec. 21. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

RAILROAD—HELENA AND BENTON.

AN ACT to authorize the counties interested to assist in building a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. The board of county commissioners of any county to benefited by a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena, are hereby authorized, and upon the petition of fifty qualified voters of any such county, are required to submit to the legal voters of their respective county, the proposition to issue county bonds of such county to aid in the construction of such railroad, not to exceed twenty per cent of the amount of assessed value of taxable property in such county, to be determined by the assessor's returns made the year previous to submitting such proposition: *Provided*, That the whole amount of bonds to be issued to such company or corporation, shall not exceed the sum of seven hundred and fifty thousand dollars, nor shall any greater amount of bonds be issued to any such company than any responsible company or corporation will offer to accept in consideration of constructing such railroad.

Sec. 2. The mode of submitting such question to the voters of such counties shall be as follows:

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The county commissioners of any county submitting such proposition, shall cause to be published in a newspaper published in such county, for at least four weeks before such question shall be submitted to vote; or, in case there shall be no newspaper published in such county, they shall cause to be posted in a conspicuous place in each election precinct in such county a notice to the voters of such county, which notice shall set forth the amount of bonds proposed to be issued, the amount of interest thereon, the time when the same shall become payable, the company or corporation to which the same is to be issued, the time when the same are proposed to be delivered to such company or corporation, in what amounts and under what restrictions with reference to the state of advancement or completion of such railroad, and in case a majority of the legal voters of such county shall vote in favor of issuing such bonds, then it shall be the duty of such board of county commissioners to cause to be issued to such railroad company or corporation the amount of county bonds, and in the manner and at the time, or times mentioned in such notice, and in no other manner. *Provided*, that in case any two or more counties shall by such vote authorize the issuing of more bonds in the aggregate than any responsible company or corporation shall offer to accept and build such road for, or in case more than seven hundred and fifty thousand dollars in bonds in the aggregate shall be authorized to be issued,then such county commissioners of each county shall only issue the amount of bonds pro rata as is authorized by section one of this act.

Sec. 3. The question as to the issuing of county bonds as above provided may be submitted as aforesaid to the electors of any such county at any general election to be hereafter held.

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Sec. 4. Whenever the board of county commissioners of any such county shall submit to a vote of the electors thereof the question of giving county bonds in aid of any such railroad, there shall be separate ballot boxes and separate poll-books for receiving and entering the votes cast on such question, and such ballots or votes shall contain the words, "railroad subsidy, yes," or, "railroad subsidy, no;" and no person shall vote on said subject except an actual resident of such county, and the same rules, regulations, and liabilities and penalties prescribed by law for the conduct of general elections, and liabilities of officers and electors therefor shall be enforced and observed at such election herein provided for, and the judges of such election shall truly certify and forward the result of such election on such subject, together with the poll-books and ballots so cast, to the board of county commissioners or county clerk at the county seat of such county, in the manner provided by law for providing and delivering the election returns of general elections, and the board of county commissioners shall canvass such returns in the same manner as is or shall be provided by law, concerning canvassing returns of elections of county officers. But no proposition shall be submitted or enforced permitting any bonds to be delivered for any mile of road which shall not be at the time of the delivery of said bonds fully completed and equipped.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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RAILROAD—NORTHERN PACIFIC.

AN ACT to encourage the construction of the Northern Pacific Railroad in the Territory of Montana.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. The treasurer of the territory of Montana is hereby authorized and instructed to issue on the credit of this territory coupon bonds, for the purposes, and under the conditions set forth in this act, to an amount not exceeding three million dollars, redeemable at the pleasure of the territory after ten years, and payable thirty years from their date, and bearing interest at the rate of seven per cent per annum, with coupons, payable semi-annually at some place in the city of New York, to be designated therein: *Provided*, that the bonds mentioned in this section shall not be issued unless this act shall be approved by a majority of the qualified electors of this territory.

Sec. 2. The bonds authorized by this act shall be in such form as the governor of the territory may direct, and shall bear the signatures of the auditor and treasurer of the territory, and shall be sealed and countersigned by the secretary of the territory, and the coupons attached shall be signed by the auditor and treasurer of the territory; and they shall contain the title and date of the passage of the act under which they are issued. Each bond shall be registered in a book to be kept for that purpose, which book shall show the amounts of bonds, their numbers, and the date of the issue. Said bonds shall be of the denominations of one hundred, five hundred, and one thousand dollars; and the faith of the territory of Montana is hereby solemnly pledged for the payment of the interest and redemption of the principal thereof.

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Sec. 3. For the purpose of carrying into effect the provisions of this act, the sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, and for that purpose placed at the disposal of the governor.

Sec. 4. Said bonds shall be issued only for the purpose of aiding the construction of the Northern Pacific railroad within the limits of this territory, and in the manner following:

Sec. 5. The governor of the territory, with one person from each organized county in the territory, who shall be elected at the election held for the approval or disapproval of this act, shall compose a board of trustees who shall be known and designated as the territorial trustees of the railroad bonds, three-fourths of whom shall constitute a quorum, who, by a two-thirds vote, are hereby authorized to enter into an agreement with the Northern Pacific railroad company, that the said company shall, within two years from the date of such agreement, construct at its own cost, and put in operation its railroad from Bismark, in the territory of Dakota, to the Yellow Stone river, at or above the mouth of Glendive creek, in Montana territory, and also within three years from the date of such agreement, and at its own cost, lay rails upon and put in operation an extension of the said railroad, westward from the mouth of Glendive creek, into the territory of Montana, three hundred and fifty miles. And for such construction in this territory the said agreement shall provide that the said bonds shall be issued to said railroad company at the rate of nine thousand dollars per mile, for every section of twenty miles of road which said company shall grade, tie and bridge, westward from the above mentioned point, at or above the mouth of Glendive Creek,

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within three years from the date of such agreement.

Provided, The total amount of bonds issued for this purpose shall not exceed the amount specified in section 1 of this act; and said agreement shall provide that said railroad company shall pay all interest coupons falling due on territorial bonds issued under the provisions of this act; and said agreement shall further provide that said railroad company shall pledge all of its receipts in money or credit for passengers or freight on that portion of its railroad between Bismark and the terminus of said western extension from business originating or terminating in Montana, to protect and pay the said bonds and coupons, and the bonds issued under this act shall provide that the interest and principal shall be paid out of said receipts, first, and said receipts failing, then by the territory of Montana; and said railroad company shall charge the same rates per mile, for freight and passenger travel over said road west from Bismark, as is, or may be charged for the same on said railroad east from said Bismark; and for this purpose the said railroad company shall semi-annually deposit with the Farmer's Loan and Trust Company, in the city of New York, the whole of said earnings, or so much thereof as may be sufficient to redeem the said coupons as they fall due, and such further amount as will, with accumulating interest, constitute a sinking fund sufficient to pay the said bonds at maturity; And if said North Pacific railroad company shall fail to deposit its gross receipts from said portion of the road as aforesaid, then the road-bed and other property of the company within the territory of Montana shall be held and bound for the satisfaction and payment of the bonds and interest thereon proposed to be issued by this act, and the lien thereby created shall take precedence to, and priority over,

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any and all other liens or incumbrances theretofore or thereafter created or imposed upon said property, save and except all lawful taxes due or to become due thereon; and these provisions shall also be incorporated in and form one of the conditions of the said bonds proposed to be issued by this act. *Provided*, That the members of said board of territorial trustees of railroad bonds shall have the power to, and may take of the said Northern Pacific railroad company other good and sufficient securities, such as they, the said territorial trustees of the railroad bonds, may deem ample and necessary to take the place of the lien created in this act. *And provided further*, That if the said railroad company shall fail to provide for the payment of the interest on said bonds when the same shall become due and payable as hereinbefore provided, and shall fail to make such provisions for the space of sixty days after demand in writing shall be made by the governor of the territory on behalf of said territory, at the office of said company in the city of New York, (said written demand to be served upon the employe or the persons in charge or possession of such office) then and in that event an action may at once be brought in the name of the territory of Montana to enforce the said lien upon the road-bed and other property hereinbefore mentioned, for the whole amount of said bonds and interest in the same manner as if the said bonds had become due and payable. *And provided further*, That the said railroad company shall, on or before the first day of January, A. D. 1877, build, construct, and put in operation at least fifty miles of said road westward from Bismark in the territory of Dakota, otherwise this act and all agreements thereunder to be null and void and of no effect.

Sec. 6. That whenever the said railroad company shall have completed and put in running opera-

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tion twenty miles of said railroad, westwardly from said Glendive creek, and whenever thereafter they shall have in like manner completed an additional section of twenty miles, and as often as such sections are so completed, it shall, through its proper officers, notify the governor of this territory of the completion of so much of said road, and thereupon the governor shall appoint a committee of not less than three reliable persons, who shall not be connected with, or in the employ of said railroad company, and who shall make an inspection of the said road, and if the same is found, upon said inspection, to be so completed in a good, substantial, and workmanlike manner, they shall certify the same to the governor in writing, who shall thereupon, after first giving thirty days notice by publication in some newspaper published at the capital of this territory, direct the auditor and treasurer of the territory to issue to said company ninety per cent of the bonds so earned and due to the said railroad company, by reason of the completion of such section of twenty miles; and the remaining ten per cent of such bonds shall not be issued until the said road is fully completed to the said distance of three hundred and fifty miles westwardly from the mouth of said Glendive creek.

Sec. 7. The members of said board of territorial trustees of the railroad bonds shall assemble upon ten days notice, at such place and time as the governor may designate for the purposes named in this act, and shall receive five dollars for each and every day they may be assembled for such purposes, and ten cents per mile for the distance necessarily traveled in going and returning, which shall be paid out of the moneys provided to carry into effect the provisions of this act. In case of the death or resignation of any member of the board, the remaining members shall fill his place by another person from

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the county which has thus lost its representation in said board.

Sec. 8. The said railroad company before entering into any agreement provided for in this act, shall file with the treasurer of Montana territory a certificate from some responsible bank, banking firm, or banking corporation in the city of New York, that the said railroad company have deposited with said bank, banking firm, or banking corporation, one million dollars ($1,000,000) in current funds, and that the said sum of money is placed to the credit of the said railroad company, and designated as "construction fund" on the books of said bank, banking firm, or banking corporation; after said agreement has been entered into, and before any territorial bonds—notwithstanding the provisions of the previous sections of this act—shall issue to the said railroad company, the said railroad company shall have graded, bridged, tied, and ironed, and placed in running order the whole of their road from the Missouri river, opposite the town of Bismark, in Dakota territory, westward to the Yellowstone river, at or above the mouth of Glendive creek, in Montana territory.

Sec. 9. Before this act shall have any force and effect for the purposes of issuing bonds for railroad purposes, or for the contract contemplated herein, and before said agents on behalf of this territory shall be authorized to contract as aforesaid, this act shall be passed by both houses of the legislative assembly, and shall then be submitted at an election to be held in the various election precincts of the several counties of the territory of Montana, on the 3d day of April, A. D. 1870.

Sec. 10. The county commissioners of the several counties, after having received notice from the governor of the territory of the passage of this act, as hereinafter provided, shall, and it is hereby made

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the duty of said commissioners, on the third of April, A. D. 1876, to cause to be submitted to the qualified electors of their respective counties, the propositions herein contained, for their approval or rejection; and if a majority of the electors of the territory at such election shall by their votes approve of this act such fact shall be entered at large upon the journals of their respective counties.

Sec. 11. The county commissioners of the several counties shall give notice of the election herein provided for, by publication in one or more newspapers published within such county at least twenty days before such election; or, if no paper be published therein, the same shall be published in one or more newspapers published in the territory most likely to give general notice.

Sec. 12. At the election herein provided for, the ballots or votes shall contain the words, "For approval of railroad act, No;" or, "For approval of railroad act, Yes." Also, for one member of the territorial board of trustees of railroad bonds in each county. And the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and liability of officers thereof, and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges at such election shall truly certify and forward the result of such election, together with the poll-books and ballots so cast, to the board of county commissioners to the county seat of said county within two days after the same shall have been counted and certified; and the said county commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election to the governor of the territory; and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act, he or they shall be deemed

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guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine not exceeding four thousand dollars and be imprisoned in the county jail not less than six nor more than ten months.

Sec. 13. The votes that are cast upon the proposition herein contained, after the same shall have been abstracted by the county commissioners of the several counties, and such abstract shall have been forwarded to the governor, as aforesaid, shall be canvassed in the same manner that the vote for delegate to congress is canvassed under the existing laws.

Sec. 14. If a majority of the votes cast upon the question hereby submitted shall approve of this act, it shall be the duty of the governor of the territory to announce such fact through one or more newspapers published in the territory; and thenceforward this act shall be a contract of binding force upon the territory of Montana.

Sec. 15. After the final passage of this act the Northern Pacific railroad company shall have until the first day of July, A. D. 1876, to accept the contract herein provided for, and should said company fail to contract before said date, then this act shall be null and void.

Sec. 16. Immediately after the passage of this act by both houses of the legislature, and said act shall have become a law, the secretary of the territory shall be required to forward to the North Pacific railroad company, in the city of New York, a certified copy of this act, and that said North Pacific railroad company shall, by the 15th day of March, A. D. 1876, notify the governor of this territory of their willingness to accept the propositions contained in this act, provided this act shall be ratified by a majority of the legal voters of the territory of Montana, as provided for in section 9 of this act;

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and in case the said railroad company fail to notify the governor of their willingness to accept the provisions of this act, as hereinbefore mentioned, then in that case there shall be no election held as provided for in this act, and this act shall be null and void.

Approved February 11, 1876.

RECORDS.

AN ACT in relation to records.

Be it Enacted by the Legislative Asembly of the Territory of Montana:

Receipt or certificate of land office made evidence.

Sec. 1. The receipt or certificate signed by the register or receiver of any United States land office of the entry or purchase of any tract of land, or of any tract by any land warrant, is *prima facia* evidence in the courts of this territory that the title to the land mentioned or described in said receipt or certificate, is in the person named therein, his heirs or assigns.

Patents for lands and certificate of register, etc., may be recorded.

Copies of records made evidence.

Sec. 2. Patents issued by the United States to lands in this territory, or duplicates thereof from the records in the general land office, and the register's or receiver's receipt or certificate mentioned in section 1 of this act, may be recorded in the registry of deeds of the county in which the land described in the patent is situated, and the record of such patents, or duplicates, or copies of such record, certified by the register of deeds, shall be evidence in like manner, and to the same extent as the records or transcripts thereof of other conveyances of real estate.

Approved February 5, 1876.

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ROADS AND HIGHWAYS.

AN ACT to amend an act entitled "An Act in relation to roads and highways," approved February 12, 1874.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Per diem of road supervisors.

Sec. 1. That section 26 of an act entitled "An Act in relation to roads and highways," approved February 12, 1874, be amended so as to read as follows: "Every supervisor of roads shall receive for each day necessarily employed in the performance of any of the duties required by this act, the sum of three dollars, to be paid out of the general road fund, and it shall be the duty of the supervisor to report to the board of county commissioners at their regular meetings in September in each year, a sworn statement of all moneys collected by them; they shall also present a sworn statement of the number of days of work done in their district for each year, and by whom performed."

Supervisors to report moneys collected and number of days work done in district.

Acts repealed.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 11th, 1876.

SCHOOLS.

AN ACT in relation to schools.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

College sites may be used for common school purposes.

Sec. 1. Whenever under the provisions of the laws of this territory the probate judge of any county, or the mayor of any incorporated town or city, shall have set apart as and for a site for a college or university, any lands or lots in any town-

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site, the school trustees of any school district in which such site is situate, if they shall so elect, may take possession thereof and occupy the same or any (part) thereof for school purposes, until the same shall be needed for the uses for which it was originally set apart; and, if in the judgment of the superintendent of public instruction of the territory and the county superintendent of common schools and the trustees of the school district in which such site is situate, such site is more appropriate and will be more useful as school grounds for the common schools than as a site for a college or university, they shall so declare in writing, which declaration shall be recorded with the probate judge, and thereafter the said college or university ground shall belong to said school district. And if heretofore any grounds so set apart for a college or university shall have been conveyed to the superintendent of common schools of the county in which such lands are situate for the time being, such conveyance is hereby confirmed and declared valid as a trust to all intents and purposes whatsoever, and such superintendent and his successors in office are hereby declared trustees for the purpose of holding such title, and the said conveyance shall enure to him and his successors in such office, in trust for the uses for which the grounds were originally set apart, but subject to the provisions of this section with reference to the district schools.

School districts in debt for school buildings may issue bonds or other evidence of indebtedness.

Sec. 2. *And be it further enacted*, That whenever heretofore in the construction of any school house the expense of such construction and the grading and fencing the ground and constructing out-houses and furnishing the same, shall have exceeded the estimate therefor and the amount of moneys belonging to such district applicable thereto, and the said district is in debt therefor, such district, by its trustees, may give its note or notes for the deficiency

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so remaining unpaid, for a period not exceeding three years, which may draw interest at a rate not exceeding eighteen per cent per annum; or if they so elect, they may issue the bonds of such district due at a time not exceeding six years from their issuance, which shall bear interest, payable semi-annually, at a rate not exceeding ten per cent per annum, and they shall ascertain the tax requisite to pay the installments of interest as they become due, and a sinking fund to meet the bonds at their maturity in the manner now required under existing laws as to special tax levies of a school district, and thenceforward all laws providing for the collection of such taxes shall apply with reference thereto, but the said moneys so raised shall be under the control of the board of trustees.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

SCHOOLS.

AN ACT to provide for the transfer of road moneys in certain cases to the benefit of the public schools.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Certain funds to be transferred to the credit of school districts.

Sec. 1. That from and after the passage of this act it shall be lawful, and it is hereby made the duty of the county treasurers of the several counties of Montana, to transfer any and all sums of money raised by county road tax and apportioned to certain road districts, and that shall have remained one year to the credit of any road district unused or unappropriated, to the credit of the particular school district or districts whose boundaries are coterminous or nearly so with those of the road district

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to whose credit said moneys were originally apportioned.

Authority for the transfer.

Se. 2. A certificate of the road supervisor that such moneys are not needed for immediate use in building or repairing roads of his district, accompanied by the petition of ten residents of such district that such transfer be made, shall be made sufficient warrant for the county treasurer to make such transfer, and the official maps of the several road and school districts of the county shall determine the districts to which the transfers are to be made.

Moneys transferred under this act how applied.

Sec. 3. Moneys so received to the credit of any particular school district, may be applied by the trustees thereof to the payment of any outstanding district indebtedness, or like other funds, to the ordinary expenses of the district.

Acts repealed.

Sec. 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

TOLL ROADS AND BRIDGES.

AN ACT to compel owners of toll roads and bridges to keep the same in repair.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Owners of toll roads and bridges to keep the same in repair.

Sec. 1. That any person or persons owning or possessing any unexpired right or title to or on any toll road or bridge, upon which toll is collected, under any charter or franchise heretofore granted by any legislative assembly of Montana territory, shall be compelled to keep said road or roads, bridge or bridges, in a thorough state of repair.

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Penalty for violation of section 1 of this act.

Sec. 2. Any party or parties not complying with the provisions of the first section of this act, shall, upon the complaint of any citizen of said territory, be deemed guilty of a misdemeanor, and upon conviction of the same before any court of competent jurisdiction, be liable to a fine of not less than twenty-five, nor more than one hundred, dollars, and be adjudged to pay all costs of prosecution, or be imprisoned in the county jail for a term not less than ten nor more than sixty days.

Repealing clause.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

When act to take effect.

Sec. 4. This act to go into and be in effect from and after the first day of March, A. D. 1876.

Approved February 11, 1876.

SPECIAL LAWS.

AN ACT to provide for the funding of the debt of Madison county.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

County commissioners authorized to bond the indebtedness of Madison county.

Sec. 1. That the county commissioners of Madison county in this territory, shall have, in addition to the powers already conferred upon them by law, authority to call in at any time when they shall deem it expedient for the interest of said county, all outstanding orders or warrants against the treasury of said county, payable out of the general fund thereof, and are authorized to issue coupon bonds in lieu thereof.

Rate of interest.

Sec. 2. All bonds that may hereafter be issued under the provisions of this act, shall draw interest from the date of issuance thereof, at a rate not exceeding ten per centum per annum, said interest

Interest, when and where payable.

to be due and payable on the first day of January of each year, by the county treasurer of said county

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out of any moneys in his hands, at the office of said county treasurer, or in the city of New York, as the holder or holders of such bonds may elect.

Form and execution of bonds.

Sec. 3. The coupon bonds authorized by this act shall be in such form as the said county commissioners may direct, and shall bear the signatures of the said county commissioners and shall be sealed and countersigned by the county clerk. The coupons provided for in this act shall be attached to said bonds, and shall be in such form as the said county commissioners shall direct; and each coupon shall bear the signature of the chairman of said board of county commissioners, countersigned by the county clerk.

Form and signatures of coupons.

Registry of bonds.

Sec. 4. Each bond issued under the provisions of this act, shall be registered by the county treasurer of said county, in a book to be kept by him for that purpose, which book shall show the amount of each bond, to whom issued, and the date of the issuance thereof. All warrants that may be called in by the said commissioners, and in lieu of which bonds shall have been issued under the provisions of this act, shall be cancelled by said commissioners in the same manner that county warrants are now cancelled under the general laws of this territory, and the said commissioners shall preserve in a book to be kept for that purpose, a correct description of each warrant so called in, showing the date and amount of each warrant, to whom issued, and the amount of interest due thereon at the date of such cancellation.

All warrants called in to be cancelled and record kept of same.

Denomination of bonds.

Sec. 5. All bonds issued under the provisions of this act shall be of the denominations of one hundred dollars and five hundred dollars; and if any amount of county orders on the general fund of said county held by any person for funding shall be of a sum less than one hundred dollars or less than five hundred dollars, the holder of such warrants

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shall make up the amount in money so as to equal the amount of the face of the bond to be issued, and any money paid for that purpose shall be paid to the county treasurer, to the credit of the general fund.

Payment and redemption of bonds.

Sec. 6. All bonds issued under the provisions of this act shall become due and payable ten years from the date of their issue, but shall be redeemable at the pleasure of said county at any time after the expiration of five years from the date of their issue.

Faith of the county pledged to pay principal and interest.

Sec. 7. The faith of the said county of Madison is solemnly pledged for the payment of the interest and redemption of the principal of the bonds authorized to be issued by this act.

Commissioners to have bonds printed.

Sec. 8. For the purpose of carrying into effect the provisions of this act, the said commissioners are hereby authorized to cause to be printed or lithographed at the lowest possible rates, suitable bonds, with coupons attached, and pay for the same out of any moneys in the county treasury of said county not otherwise appropriated.

Holders of warrants to file same for bonding.

Sec. 9. All holders of county warrants on the general fund of said county shall present the same to the board of county commissioners of said county, or file the same with the county clerk thereof, on or before the first day of April, A. D. 1876, for conversion into bonds under the provisions hereof; and in case any holder or holders of such county warrants shall fail to present their warrants to said commissioners or file the same with the clerk of said county as herein provided, on or before the said first day of April, A. D. 1876, it shall be lawful for the said county commissioners, in their discretion, to issue and dispose of in the manner hereinafter provided, a sufficiency of the bonds authorized by this act, to pay off said warrants, and shall out of the proceeds of such sale of bonds cause the said warrants to be redeemed in the manner now provided

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under the general laws of the territory for the redemption of county warrants.

Advertisement and sale of bonds.

Sec. 10. The county commissioners of said county of Madison shall cause to be advertised in a newspaper published in said county, for four weeks, a notice to the effect that they will sell at public auction to the highest bidder, the bonds authorized by section 9 of this act to be sold, stating in such notice the time and place of sale, and the amount and denomination of the bonds to be sold. *Provided*, That no bonds disposed of under the provisions of this act, shall be sold at less than the face thereof.

Purchase and cancelation of bonds issued under this act.

Sec. 11. At any time after the warrants of said county shall been converted into bonds under the provisions of this act, the county commissioners of said county shall ascertain that there has accumulated in the county treasury of said county, funds not appropriated by law and not needed to meet the current expenses of the county, any sum of money exceeding one hundred dollars, it shall be lawful for the said commissioners to direct the treasurer of said county to purchase the bonds of said county, to the extent of the funds so ascertained to be in the hands of said treasurer, and the said treasurer shall with such accumulated funds purchase bonds of said county, and shall report the same to said commissioners at his next settlement, and the said commissioners shall cancel the same as provided by law.

Of the payment of interest.

Sec. 12. The treasurer of said county shall pay the interest as it falls due on the bonds herein authorized, on the presentation to him of the proper coupons therefor, and all bonds and coupons which may be paid by the said county treasurer shall be returned by said treasurer to the board of county commissioners at his next settlement with them after such payment, and the said commissioners shall cancel said bonds and coupons in the manner now

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provided by law for the cancellation of county warrants.

Penalty for forging or counterfeiting bond or coupon.

Sec. 13. That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under the provisions of this act, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall have or keep in possession, or conceal with the intent to utter, publish, or sell any such forged, counterfeited, or altered bond or coupon with intent to defraud any body corporate or politic, or any person or persons whatever: Every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding ten thousand dollars, and by imprisonment and confinement at hard labor in the penitentiary not exceeding fifteen years, in the discretion of the courts.

Repealing clause.

Sec. 14. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 15. This act to take affect and be in force from and after its passage.

Approved February 10, 1876.

SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding twelve per cent bonds of Meagher county, Montana territory, and for other purposes.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

County commissioners authorized to issue coupon bonds on credit of the county.

Section 1. That the commissioners of Meagher county, Montana territory, are hereby authorized and empowered to issue on the credit of said county coupon bonds to an amount not exceeding thirty

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thousand dollars, or so much thereof as may be necessary to redeem all of the outstanding twelve per cent bonds heretofore issued by said county, together with the interest remaining unpaid thereon, which bonds shall be redeemable at the pleasure of said county, after three years from their date, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding ten per cent per annum.

Form of bonds and coupons. Same, how authenticated.

Sec. 2. The bonds authorized to be issued by this act shall be in such form as the said commissioners may direct, and shall bear the signature of the chairman of the board of county commissioners of said county and the treasurer of said county, and shall be sealed and countersigned by the clerk of said county, and the coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk; and each bond issued shall be registered by the county treasurer, in a book provided for that purpose, and it shall show the number and amount of each bond and to whom issued, and the said bonds shall be sold by said county commissioners, or their lawfully authorized agent or agents, at not less than ninety cents on the dollar of the face thereof, as hereinafter provided.

Bonds to be registered.

Advertisement and sale of bonds.

Sec. 3. The said county commissioners shall, as soon as practicable after the passage of this act, give notice by advertisement in one weekly neswpaper published in this territory, and one daily newspaper published in the city of New York, for a period of not more than four weeks, to the effect that the said county commissioners will sell said bonds (briefly describing the same) and stating the time when such sale will take place.

Application of proceeds of bonds.

And all moneys arising from the sale of said bonds shall be paid into the treasury of said county to the credit of the sinking fund, and shall immedi-

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ately thereafter be applied to the payment of the outstanding twelve per cent bonds of said county and the unpaid interest thereon.

Denomination of bonds.

Sec. 4. All bonds authorized to be issued by this act shall be of the denominations of one hundred, five hundred, and one thousand dollars, and the

Faith of the county pledged

faith of the said county of Meagher is hereby pledged for the payment of the interest and the redemption of the principal of said bonds.

Sec. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each

Payment of interest on bonds.

bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged, and all coupons so paid shall be reported to the said commissioners at the first meeting thereafter; but in case the holder or holders of the said bonds shall give the treasurer notice in writing that they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons shall be payable in said city of New York; otherwise the said bonds and coupons shall be payable at the office of said county treasurer.

Sec. 6. It shall be the duty of said county commissioners to cause to be set aside forty per cent of

Moneys set aside to pay interest and create sinking fund.

all moneys collected by said county, or received into the treasury thereof, for the purpose of paying the interest accruing on the bonds issued and sold under the provisions of this act, and all surplus of said forty per cent received into the treasury, after the payment of the interest aforesaid, shall constitute a sinking fund and be applied to the redemption of the principal of said bonds, as hereinafter provided.

Sec. 7. Whenever, at any time, the sum in said sinking fund shall exceed the sum of five hundred

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dollars, and from time to time thereafter, when it may so occur, the said treasurer shall cause a notice to be published in one newspaper of Montana territory that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if at the expiration of said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation. Such notice shall be sent by mail to such places in New York city, of which the treasurer shall have knowledge by virtue of section 5 of this act, with like effect.

Redemption of bonds.

Sec. 8. If at any time before the expiration of three years from the date of said coupon bonds, there shall accumulate in the sinking fund of said county the sum of one hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of the said coupon bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose to purchase or redeem, and the treasurer of said county shall cancel all bonds so purchased or redeemed, and all bonds purchased or redeemed under the provisions of this act by writing across the face of such bond or bonds, in red ink, the word "redeemed," and the date of such redemption.

Purchase of bonds issued under this act.

Sec. 9. If any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under this act, or shall pass, utter, publish or sell, or shall

Penalty for forging or counterfeiting bonds issued under this act.

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have or keep in possession, or conceal with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered bond or coupon, with intent to defraud any (body), corporate or politic, or any other person or persons whatsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, and be imprisoned and confined at hard labor in the penitentiary not exceeding fifteen years.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

SPECIAL LAWS.

AN ACT to provide for the redemption of the funded debt of Missoula county, and to provide for the payment of interest on the bonds of said county.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Commissioners may issue bonds and sell to highest bidder.

Section 1. That the county commissioners of Missoula county are hereby authorized to issue bonds and sell the same to the highest bidder in accordance with the provisions of this act. Such bonds so authorized to be issued shall bear interest at the rate of ten per cent per annum, payable semi-annually, and may be issued in denominations of one hundred, five hundred, and one thousand dollars, in the discretion of the board of county commissioners, and shall be signed by the chairman of the board of county commissioners and the county treasurer, and shall be sealed and countersigned by the county clerk.

Interest and denomination of bonds.

Sale of bonds to be advertised. May sell at private sale.

Sec. 2. That the county commissioners of the county of Missoula shall cause to be advertised in a newspaper of said county for so long a time as may be necessary, a notice stating at what time any sale

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of bonds in accordance with the provisions of this act will take place. But the county commissioners may discontinue any such sale in case they deem it for the interest of the county to do so; and may sell such bonds at private sale.

Bonds, when redeemable.

Sec. 3. That the bonds authorized to be issued by this act shall be redeemable at the pleasure of the county at any time after three years, and payable within ten years from the date of issue.

Application of proceeds of bonds.

Sec. 4. That the proceeds of the sale of said bonds shall be paid into the sinking fund, and shall be applied to the payment of the interest on the bonds of said county as the same may become due and payable, and to the redemption of the bonds of said county as the same may become due and payable.

Interest may be paid out of sinking fund.

Sec. 5. That the county commissioners of Missoula county may allow interest, payable out of the sinking fund, on such bonds as are now past due and unpaid at a rate not to exceed fifteen per cent per annum, such rate to be fixed by said board of county commissioners.

Acts repealed.

Sec. 6. That all acts, and parts of acts, in conflict with the provisions of this act, be, and the same are hereby, repealed.

When act to take effect.

Sec. 7. This act to take effect and be in force from and after its passage.

Approved January 24, 1876.

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SPECIAL LAWS.

AN ACT to provide for the payment of the indebtedness of Missoula county.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Treasurer not to pay warrants except as provided by this act.

Section 1. From and after the passage of this act it shall not be lawful for the Treasurer of Missoula county to pay any warrant drawn on the treasury of said county prior to the passage of this act, except in the manner as hereinafter provided.

County commissioners to create redemption fund.

Sec. 2. The board of county commissioners of said county are here authorized and directed, from and after the passage of this act, to create in the county treasury of said county a fund to be known as the "Redemption Fund" of said county. As soon after the passage of this act as is possible they shall cause to be transferred into said "Redemption Fund" not less than fifty per cent of all moneys in the general fund at the time of the taking effect of this act, and that hereafter it shall be the duty of the county treasurer of said county to pay into said redemption fund fifty per cent of all county revenue due to and payable into the general fund; and the county treasurer of said county is hereby expressly forbidden from paying out any portion of said fifty per cent of said revenue from said treasury until the said orders of transference, to be made by said board of county commissioners hereinbefore provided for, is duly certified to such treasurer. The moneys placed in the redemption fund, created by this act, shall be disbursed as hereinafter provided.

Per cent of general fund transferred to the redemption fund.

Duty of the treasurer when the sum of three hundred dollars has accumulated in the redemption fund.

Sec. 3. Whenever, at any time, there shall be paid into said redemption fund the sum of three hundred dollars or more, it shall be the duty of the county treasurer of said county to give fifteen days' notice by publication in some newspaper published

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in the county, if there be one, if none, then by posting written notices in three or more of the most public places in said county, setting forth that sealed proposals, directed to him, will be received for the surrender of county warrants issued prior to the passage or under the provisions of this act, and that said proposals will be received by him until the next regular meeting of the board of county commissioners thereafter.

Sealed proposals for sale of warrants to be opened.

Sec. 4. On the first day of such regular meeting and at the session of the first Monday in January of each year of said board of county commissioners, they, together with the auditor and county treasurer, shall attend at the office of the latter, and then and there open all sealed proposals and accept the lowest bids for the surrender of county warrants specified in the preceding section: *Provided*, that no bid for more than par value shall be accepted by them, nor any bid, unless accompanied by the warrant or warrants proposed to be surrendered.

When bids accepted a record to be made of all warrants purchased.

Sec. 5. When any bids are accepted the county auditor and county treasurer shall each take a description of the warrants to be redeemed, specifying the amount to be paid for each warrant, the date, number, and amount thereof, and make a record thereof in their respective offices; and thereupon the board of county commissioners shall, by order, direct the county treasurer to purchase the warrants designated in the accepted bid or bids, and pay for the same out of the redemption funds aforesaid, and all warrants so redeemed shall be canceled by the county treasurer by writing across the face thereof, in red ink, "purchased and redeemed," adding thereto the time when and the amount paid therefor, and signing the same officially. The order of the board of county commissioners aforesaid, together with the record made by the county auditor as herein required, shall be sufficient vouchers for

Order of commissioners directing purchase of warrants.

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the county treasurer in the settlement of his accounts.

Preference given to smallest amount if bids equal.

The bids specified in this act being equal, preference shall be given to the smallest amounts that shall be deemed the lowest bid which offers the largest amount of warrants at par value for the lowest sum of money. The bids and amounts of warrants being equal, taking into consideration both principal and interest, each shall be accepted *pro rata* as nearly as possible. The county treasurer shall return all unaccepted bids together with the warrants therein contained to the owners on demand.

Return of unaccepted bids.

Separate account kept of redemption fund.

The county treasurer shall keep a separate account under the heading of "Redemption Fund," of all moneys received into said fund, and of all moneys paid out of said fund, and to whom paid.

He shall also, on the register of county warrants kept by him, write opposite each warrant redeemed under the provisions of this act, the word "purchased," and shall state the amount paid therefor.

Purchase of claims due not yet allowed.

Sec. 6. When any claim against said county, which accrued prior to the passage of this act, is allowed by the board of county commissioners of said county after the passage of this act, the same shall be allowed as purchasable out of the redemption fund of said county, and all warrants drawn for the payment of the same shall be drawn upon and purchasable out of said redemption fund in the same manner provided by this act for the purchase of other county warrants with moneys of said county in said redemption fund.

Acts repealed.

Sec. 7. All acts and parts of acts, in conflict with the provisions of this act, are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved January 24, 1876.

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SPECIAL LAWS.

AN ACT authorizing the county commissioners of Missoula county to apply certain funds of said county for a specific purpose.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

County commissioners authorized to use certain moneys to construct wagon road on the east side of the Bitter Root river.

Sec. 1. That the county commissioners of Missoula county are hereby authorized and empowered to apply so much of the bridge and road purchase fund of said county, created by section one (1) of an act to amend an act entitled "An act authorizing the county commissioners of Missoula county to levy a special tax for the purpose of building, buying and repairing bridges," approved January 24th, 1874, not exceeding the sum of three thousand dollars, ($3,000) towards the construction of a graded wagon road on the east side of the Bitter Root river, between the mouth of Eight-mile creek and Miller's crossing on the lower Bitter Root river.

Commissioners to employ surveyor to locate road.

Sec. 2. *Provided*, that before said board of county commissioners shall appropriate any money authorized by the provisions of this act, they are hereby authorized and instructed to employ the county surveyor of Missoula county to survey, stake out and locate, a working line for said wagon road, between the points mentioned in section one of this act, with a grade not to exceed in any part of said road, one foot to each rod; and said commissioners are hereby instructed to require bonds with good security for a sum not less than four thousand dollars, of the parties or party contracting to do such grading, strictly according to survey; and said commissioners are hereby prohibited from paying any money for any part of said grading, until said wagon road is all completed between the points above mentioned.

Party contracting to construct road to give bond.

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Acts repealed.

Sec. 3. All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 2, 1876.

SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding twelve per cent bonds of Jefferson county, Montana territory, and for other purposes.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Commissioners may issue bonds to redeem outstanding twelve per cent bonds.

Sec. 1. That the commissioners of Jefferson county, Montana territory, are hereby authorized and empowered to issue, on the credit of said county, coupon bonds to an amount not exceeding forty thousand dollars, or so much thereof as may be necessary to redeem all of the outstanding twelve per cent bonds heretofore issued by said county, together with the interest remaining unpaid thereon, and to raise money sufficient to meet the deficit now existing in the treasury of said county by reason of the robbery of said treasury on the night of December 31st, 1875, which bonds shall be redeemable at the pleasure of said county after three years from their date, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding ten per cent per annum.

And to supply deficit in treasury.

Form of bonds, and same how authenticated.

Sec. 2. The bonds authorized to be issued by this act shall be in such form as the said county commissioners may direct, and shall bear the signature of the chairman of the board of county commissioners of said county, and the treasurer of said county, and shall be sealed and countersigned by

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the clerk of said county; and the coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk, and each bond issued shall be registered by the said county treasurer in the book provided for that purpose, and it shall show the number and amount of each bond, and to whom issued; and the said bond shall be sold by said county commissioners, or their lawfully authorized agent or agents, as hereinafter provided.

Bonds, how sold.

Sec. 3. The said county commissioners shall, as soon as practicable after the passage of this act, give notice by advertisement in one weekly newspaper published in the territory, and one weekly newspaper published in the city of New York, for the period of four weeks, to the effect that the said county commissioners will sell said bonds, briefly describing the same, at not less than their par value; and all moneys arising from the sale of said bonds shall be paid into the treasury of said county, to the credit of the sinking fund, and shall immediately thereafter be applied to the payment of the outstanding twelve per cent bonds of said county unpaid, and the interest thereon.

Sale of bonds to be advertised.

Proceeds of bonds, how disposed of.

Sec. 4. All bonds authorized to be issued by the provisions of this act, shall be of the denomination of one hundred, five hundred, and one thousand dollars each; and the faith of said county of Jefferson is hereby pledged for the payment of the interest and the redemption of the principal of said bonds.

Denomination of bonds.

Credit of county pledged.

Sec. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due, and the number of the bond to which it belonged,

Payment of interest on bonds.

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and all coupons so paid shall be reported to the said commissioners at their first meeting thereafter; but in case the holder or holders of said bonds shall give the said treasurer notice in writing, that they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons shall be payable in said city of New York; otherwise the said bonds and coupons shall be payable at the office of said county treasurer.

Moneys set aside to pay interest.

Sec. 6. It shall be the duty of the said county commissioners to cause to be set aside forty per cent of all moneys collected by said county, or received into the treasury thereof, for the purpose of paying the interest accruing on the bonds issued and sold under the provisions of this act; and all surplus of said forty per cent received into the treasury after the payment of the interest aforesaid, shall constitute a sinking fund, and be applied to the redemption of the principal of said bonds, as hereinafter provided.

Redemption of bonds.

Sec. 7. Whenever at any time the sum in said sinking fund shall exceed the sum of five hundred dollars, and from time to time thereafter, when it may so occur, the said treasurer shall cause a notice to be published in one newspaper of Montana territory, that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if at the expiration of said thirty days the holder or holders shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter, be ready to redeem the same on presentation. Such notice shall be sent by mail to such places in New York city, of which the treasurer shall have knowledge, by virtue

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of the provisions of section five of this act, with like effect.

Amount to supply deficit in treasury.

Sec. 8. Bonds to the amount of four thousand dollars, of the amount authorized to be issued in section one of this act, may be set aside and disposed of by said county commissioners as hereinafter provided, for the purpose of raising money to meet the deficit now existing in the treasury of said county, by reason of the robbery of the same on the night of December 31st, 1875.

Bonds sold to highest bidder. May sell at private sale.

Sec. 9. That as soon as practicable after the passage of this act, the commissioners of said county are hereby authorized to advertise in one weekly newspaper published in the territory, that they will, on a certain day, to be fixed by them, sell to the highest bidder, the coupon bonds mentioned in section eight of this act: *Provided*, That the said commissioners are authorized to reject any and all bids, and to sell said coupon bonds at private sale if they believe it to be for the best interests of the county.

Proceeds applied to supply deficit.

Sec. 10. The money arising from the sale of said coupon bonds of said county, shall be immediately applied to the payment of the deficit in the treasury of said county, caused by the robbery of the same, on the night of Dec. 31st, 1875.

Bonds redeemed to be canceled.

Sec. 11. If at any time before the expiration of three years from the date of said coupon bonds, there shall accumulate in the sinking fund of said county, the sum of one hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of the said coupon bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose, and the treasurer of said county shall cancel all bonds so purchased or redeemed, and all bonds purchased or redeemed as provided for in this act, by writing across the face of such bond or bonds,

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when so purchased or redeemed, the word "redeemed," and the date of such redemption.

Penalty for forging or counterfeiting bond or coupon.

Sec. 12. If any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under the authority of this act, or shall pass, utter, publish, or sell, or shall have or keep in possession, or conceal with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered bond or coupon, with intent to defraud any body, corporate or politic, or any other person or persons whomsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor in the penitentiary not exceeding fifteen years.

When act to take effect.

Sec. 13. This act shall take effect and be in force from and after its passage.

Approved January 31st, 1876.

SPECIAL LAWS.

AN ACT authorizing the county commissioners of Deer Deer Lodge county to pay certain claims.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That the board of county commissioners of Deer Lodge county are hereby authorized and required to issue to the following named persons, their heirs or assigns, warrants on the general fund of said county, to reimburse said parties for labor done, materials furnished, and moneys expended in the construction of the wagon road leading from

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Deer Lodge City to Pioneer City in said county of Deer Lodge, constructed under the supervision of John J. Dounhouer, in such sums as may hereafter be found due them, as provided for under section 2 of this act. The names of said parties are: John J. Dounhouer, Jere. B. Wilcox, Charles Bielenberg, G. Higgins, E. Goodnight, John Blackledge, P. Gilfoy, J. Simmitt, W. Brainard, and A. Gavon.

Sec. 2. Before any warrants shall be issued by the commissioners of said county under the provisions of this act, the parties named herein, or their heirs or assigns, shall make affidavit before some officer authorized by law to administer oaths, that such labor has been performed, or such materials furnished, or such moneys expended, by them, in the construction of said road, and that the same has never been paid. Upon the filing of such affidavits with the clerk of the board of county commissioners, it shall be the duty of the said board of commissioners at their first regular meeting thereafter, to issue to the party or parties making such affidavit, warrants on the general fund of said county, to the amount of their respective claims *Provided*, That this act shall not be construed to authorize said commissioners to issue warrants to any persons not herein named.

Sec. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the redemption of the funded debt of Lewis and Clarke county.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Commissioners may issue coupon bonds to redeem bonds of county due in 1876 and 1877.

Sec. 1. That the commissioners of Lewis and Clarke county are hereby authorized and empowered to issue on the credit of said county, coupon bonds to an amount sufficient to enable them to redeem all outstanding bonds of said county, falling due in the years A. D. 1876 and A. D. 1877, which said bonds shall be redeemable at the pleasure of said county, after three years from their date, and shall become due and payable ten years from their date.

Denomination and rate of interest of bonds to be issued.

Sec. 2. Said bonds shall be of the denomination of fifty, one hundred, five hundred, and one thousand dollars, each, and shall bear interest at a rate not exceeding ten per cent per annum. They shall be in such form as the commissioners may direct, and they shall be signed by the chairman of the board of county comissioners and the treasurer of said county; they shall also be sealed and countersigned by the clerk of said county. The coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk. Each bond issued shall be registered by the said county treasurer in a book provided for that purpose, and such registration shall show the number and amount of each bond, and when and to whom issued.

Form and authentication of bonds and coupons.

Bonds to be registered.

Sale of bonds to meet deficit.

Sec. 3. When it shall appear to said board of county commissioners at any regular meeting thereof that there is not a sufficient sum in the sinking fund to meet any outstanding bonds maturing and falling due before their next regular session, they shall order a sale of a sufficient number of the bonds

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provided for in this act to meet such deficit and no more.

Advertisement and sale of bonds under this act.

Sec. 4. Such sale of bonds shall be by public auction to the highest bidder for cash, and shall be made at the front door of the court house in said Lewis and Clarke county. Notice of the time and place of such sale shall be given by advertisement in one or more newspapers published in this territory, for a period of not less than four weeks; and if the said commissiones shall deem it expedient and for the best interests of said county, by like advertisement in one newspaper published in New York city, for such length of time as they may direct.

Payment of interest on bonds issued under this act.

Sec. 5. The treasurer of said county shall pay in lawful money of the United Sates at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be reported to the said commissioners at their first meeting thereafter. Should the holder or holders of said bonds to an amount of not less than one thousand dollars give the said treasurer notice in writing that they desire the bonds so held by them and the interest accruing thereon to be paid at a designated national bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York. Otherwise said bonds and coupons shall be payable at the office of said county treasurer.

Proceeds of the sale of bonds.

Sec. 6. The proceeds of the sale of such bonds shall be paid into the county treasury of said county and shall be applied to the sinking fund.

Registry of bonds redeemed.

Sec. 7. The treasurer shall register in a book to be kept by him for that purpose, all bonds redeemed by him, which book shall show the amount of the

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bond, its number and date, when and to whom issued, and when and from whom redeemed. Said treasurer shall also write across the face of said bond, in red ink, the word "*redeemed*," with the date of such redemption, and shall subscribe his name thereto. He shall also cancel said bonds with a cancelling stamp.

Acts repealed. Sec. 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 5, 1876.

SPECIAL LAWS.

AN ACT to incorporate the town of Helena.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

ARTICLE I.—*Of Boundaries.*

Section 1. That the inhabitants of the city of Helena, in Lewis and Clark county, territory of Montana, be and they are hereby constituted a body politic and corporate, by the name and style of "The city of Helena," and by that name shall have perpetual succession; may sue and be sued, plead and be impleaded in all courts of law and equity, and may have and use a common seal, and alter the same at pleasure.

Sec. 2. That the following described territory shall for the present compose the said town, to-wit:

The southwest quarter of the northeast quarter, and the south half of the northwest quarter, and the southwest quarter, and the west half of the southeast quarter of section No. 30, and the west half of the northeast quarter, and the northwest quarter of the southwest quarter of section No. 31, township No. (10) ten, north range No. (3) three west; and the south half of the northeast quarter of section No. (25) twenty-five, and the northeast quarter and the north half of the southeast

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quarter of section No. (36) thirty-six, township No. (10) ten, north range No. (4) four, west from the principal base and meridian, Montana territory.

Sec. 3. Whenever any tract of land adjoining the city of Helena shall be laid off into town lots and duly recorded, as may be required by law, the same may, by the city council, be annexed to and become a part of the city of Helena.

Sec. 4. The inhabitants of said city, by the name and style aforesaid, shall have power to purchase, receive and hold property, both real and personal, or mixed, either in or beyond the city, for burial grounds, and for other purposes, for the use of the inhabitants of said city.

ARTICLE II.—*Of the City Council.*

Section 1. There shall be a city council, to consist of a mayor and board of aldermen.

Sec. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters for two years, and until others shall be legally qualified.

Sec. 3. No person shall be an alderman unless at the time of his election he shall be a tax-paying householder, and have resided within the limits of the city one year immediately preceding election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

Sec. 4. If any alderman after his election remove from the ward for which he was elected, his office shall be declared vacant. The mayor and aldermen shall serve without any compensation whatever.

Sec. 5. At the first meeting of the city council the aldermen shall be divided by lot into classes. The seats of those of the first class shall be vacated at the expiration of the first year; and of the second class at the expiration of the second year; so that one-half of the board shall be elected annually.

Sec. 6. The city council shall judge of the qualifications and returns of their own members, and shall determine all contested elections under this act.

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Sec. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinances.

Sec. 8. The city council shall have power to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

Sec. 9. No alderman shall be appointed to any office under the authority of the city, nor for one year after the termination of his said office; nor shall any person holding an office under the laws of the United States hold any office under this act or the ordinances of said city.

Sec. 10. All vacancies that shall occur in the board of aldermen shall be filled by election.

Sec. 11. The mayor and aldermen, before entering upon the duties of their respective offices, shall each take and subscribe an oath, or make an affirmation, that he will support the constitution of the United States and the Organic Act of this territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

Sec. 12. Whenever there shall be a tie in the election of aldermen, the judges of the election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as shall be prescribed by ordinance.

Sec. 13. There shall be twelve stated meetings of the city council in each year, at such times and places as may be prescribed by the city council.

ARTICLE III.—*Of the Executive Officer.*

Section 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Sec. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the city for one year next preceding his election, or who shall be under twenty-five

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years of age, or who shall not, at the time of his election, be an elector.

Sec. 3. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent from the city for the space of three months, his office shall be vacated.

Sec. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed to determine the same by lot, in such a manner as may be provided by ordinance.

Sec. 5. Whenever any election for mayor shall be contested the city council shall determine the same as may be prescribed by ordinance.

Sec. 6. Whenever any vacancy shall happen in the office of mayor it shall be filled by election.

ARTICLE IV.—*Of Elections.*

Section 1. On the third Monday in May, A. D. 1877, an election shall be held in said city for one mayor for the city and two aldermen for each ward, and forever thereafter on the first Monday in May of each year there shall be an election of one mayor for said city and one alderman for each ward.

Sec. 2. All citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who shall have been actual residents of said city six months next preceding said election, shall be entitled to vote for city officers, provided that said voters shall give their votes in the wards in which they shall respectively reside.

ARTICLE V.—*Powers of the City Council.*

Section 1. The city council shall have power and authority to levy and collect *ad valorem* taxes for city purposes upon all taxable property, real, mixed, and personal, except as herein excepted, within the limits of the city, not exceeding three-tenths of one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in any

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manner that may be prescribed by ordinance, not repugnant to the constitution of the United States, or the Organic Act of this territory.

Sec. 2. The city council shall have power to appoint all officers except the police magistrate, city clerk, city assessor, treasurer, and marshal, who shall be nominated by the mayor, and by him appointed, by and with the advice of the city council, whose term of office shall be one year, subject to removal as herein provided.

Sec. 3. The city council shall have power to require of all officers appointed or elected in pursuance of this act, bonds with penalty and security, for the faithful performance of their respective duties, as may be deemed expedient, and also require of all officers appointed or elected as aforesaid, to take such oaths or make such affirmations as the city council may prescribe for the faithful performance of the duties of their respective offices before entering upon the discharge of the same.

Sec. 4. To appropriate money and funds for the payment of the expenses of the city.

Sec. 5. To make regulations to prevent the introducing of contagious diseases into the city; to make quarantine laws for the purpose, and to enforce the same within five miles of the city.

Sec. 6. To establish hospitals and make regulations for the government of the same.

Sec. 7. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

Sec. 8. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets.

Sec. 9. To open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve and keep in repair, streets, avenues, lanes, alleys, side-walks, drains and sewers.

Sec. 10. To establish, erect, and keep in repair bridges.

Sec. 11. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

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Sec. 12. To establish, support and regulate night watches.

Sec. 13. To provide for lighting the streets, and to erect lamp posts.

Sec. 14. To erect market houses, to establish markets and market places, and to provide for the government and regulation thereof.

Sec. 15. To provide all needful buildings for the use of the city.

Sec. 16. To provide for the enclosing, improving and regulating of all public grounds belonging to the city.

Sec. 17. The said city council shall not be authorized to incur any indebtedness on behalf of said city for any purpose whatever to exceed the sum of five hundred dollars.

Sec. 18. It shall have power to provide for the prevention and extinguishment of fires; to organize and establish fire companies, and to prohibit the erection of wooden buildings in any part of the city.

Sec. 19. To regulate the building and fixing of chimneys, and to fix the flues thereof.

Sec. 20. To regulate the storage of gunpowder, tar, pitch, and resin, and other combustible or dangerous materials.

Sec. 21. To regulate parapets, walls and partition fences, and restrain cattle, hogs, horses, sheep and dogs from running at large.

Sec. 22. To establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, and to fix and enforce payment of fines for non-compliance with any such order.

Sec. 23. To provide for the measuring and inspection of lumber and other building materials, and the measuring of all kinds of mechanical work.

Sec. 24. To provide for the inspection and weighing of stone coal, and measurement of charcoal, firewood, and other fuel to be used within the city.

Sec. 25. To provide for and regulate the inspection of tobacco, and of beef, pork, mutton, game, and fish, flour, meal, and whisky in barrels.

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Sec. 26. To regulate the inspection of butter, lard, and all other provisions.

Sec. 27. To regulate the weight and quality of bread to be used in the city.

Sec. 28. To regulate the size of bricks to be used in the city.

Sec. 29. To provide for taking the enumerations of the city.

Sec. 30. To regulate the election of city officers, and to provide for removing from office any person holding an office created by ordinance.

Sec. 31. To fix the compensation of city policemen, who shall be night watchmen: *Provided*, That such compensation shall not exceed the same paid by law in this territory to other officers for like services, and regulate fees of jurors, witnesses and others for services rendered under this act, or any ordinance made in pursuance thereof.

Sec. 32. To regulate the police of the city; to enforce fines, forfeitures and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures, and the enforcement of such penalties, and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city for the general use and benefit of the inhabitants thereof, for the purposes herein provided.

Sec. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act, so that such ordinances incur no indebtedness whatever, and necessitate no levying of taxes exceeding three mills on each dollar, except as is provided in sections five and six of article seven, and be not repugnant to nor inconsistent with the constitution of the United States, nor the Organic Act of this territory.

Sec. 34. The style of the ordinance shall be, "Be it ordained by the city council of the city of Helena."

Sec. 35. All ordinances of the city council shall, within ten days after they shall have been passed, be posted in three public places in said city, and shall not be in force until they have been posted as aforesaid.

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Sec. 36. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.—*The Mayor.*

Section 1. The mayor shall preside at all meetings of the city council, and in case of a tie he shall have the casting vote, and in no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

Sec. 2. The mayor or any two aldermen may call a special meeting of the city council, the city clerk, on their requisition, giving reasonable notice in writing thereof, to all members of the city council present in said city.

Sec. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation of duty to be prosecuted and punished. He shall, from time to time, communicate to the aldermen such information and recommend all such measures as in his opinion may tend to the improvement of the finances, the police, the health, security and comfort of the city.

Sec. 4. He is hereby authorized to call on every male citizen of said city over the age of eighteen years to aid in the enforcing of the laws and ordinances, and in case of riots to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or of carrying into effect any law or ordinance, and any person who shall not obey such call shall forfeit to said city a fine not exceeding twenty-five dollars.

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Sec. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

Sec. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

Sec. 7. He shall also have such power as may be vested in him by ordinance of the city in and over all places within five miles of the boundaries of the city for the purposes of enforceing the health and quarantine ordinances and regulations thereof.

Sec. 8. In case the mayor shall be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, mal-conduct, or partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not more than five hundred dollars, and the court shall have the power, upon the recommendation of the jury, to add to the judgment of the court that he be removed from office, and forever thereafter be disqualified from holding office under this act or any ordinances of said city.

ARTICLE VII.—*Miscellaneous Provisions.*

Section 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one years, to labor on said streets, lanes, avenues and alleys not exceeding one day in each and every year; and every person failing to perform such labor when duly notified by the street commissioners, shall forfeit and pay two dollars for said day so neglected or refused, to be used in improving the public streets.

Sec. 2. The members of the city council and firemen shall, during their term of service as such, be exempt from working out any road or street tax, and shall likewise be exempt from serving in the militia of the territory or on any jury.

Sec. 3. The council shall have power to provide for the punishment of offenders by imprisonment, in all cases where

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such offenders shall fail or refuse to pay the fine and forfeiture which may be recovered against them acccording to the laws of this territory.

Sec. 4. The city council shall have power by ordinance to levy and collect a special tax on the holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of paving, grading or planking sidewalks, and lighting such street, lane, avenue, or alley, provided such tax shall not exceed the actual cost of said sidewalks and lighting respectively, which tax shall be collected in the same manner as other city taxes.

Sec. 5. That no levy or assessment of taxes, not heretofore provided for, shall be made by said city council, except upon a vote of two-thirds of the members thereof, and every levy of taxes for each purpose shall be set forth in a section of an ordinance by itself.

Sec. 6. After the passage of said ordinance by such vote, the same shall be published in two city newspapers for at least one week, together with a notice that the same will be submitted to a vote of the tax-paying householders of said city, on a day and at a place in each of the wards to be named, which election shall be conducted as is provided in other cases, and the ballots shall be for section (—) of an ordinance entitled (giving title), or against section (—) of an ordinance entitled (giving title); and if two-thirds of said voters shall approve the same, the said ordinance shall be in full force, but if not so approved the same shall be void.

Sec. 7. The city council shall provide the detailed method of conducting such election not inconsistent with this act, but nothing in this and the two preceding sections shall affect the passage of ordinances levying taxes for the maintenance of the city police (not exceeding two in number), the payment of night watchmen (not exceeding two in number), paraphernalia for extinguishing fires, cleaning streets, enclosing and protecting cemeteries, maintaining and keeping in repair the property of the fire department, and necessary notices in two of the city newspapers.

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Sec. 8. That the city shall not be liable for any costs in any suit prosecuted in its name in its own courts; nor shall any fees taxed exceed in amount the items of fees allowed for similar services to other officers in this territory.

Sec. 9. All fines and forfeitures collected for offences committed, or penalties incurred within the incorporation limits of the city of Helena, shall be paid into the treasury of the said city by the officer collecting the same, with details of sources and on what account paid out.

Sec. 10. The city council shall cause to be published, annually, a full and complete statement of all moneys received and expended, from whatever source received, and what account paid out, with full details.

Sec. 11. All suits, actions and prosecutions instituted, commenced, or brought by the corporation hereby created, shall be prosecuted in the name of the city of Helena.

Sec. 12. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner and with like effect as appeals are taken from and granted from justices of the peace under the laws of this territory.

Sec. 13. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon, and if any such person shall violate the provisions of this section, he shall be deemed guilty of a misdemeanor under the laws of this territory, and shall be prosecuted therefor in the district court, and, on conviction thereof, shall be fined not less than two hundred and fifty dollars nor more than six hundred dollars, or imprisonment three months, or both such fine and imprisonment, and in all contracts involving the expenditure of one hundred dollars or more, the city council shall advertise the same, with specifications, for a period to be prescribed by ordinance, and award the same to the lowest bidder, and they shall so advertise all contracts when convenient so to do.

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Sec. 14. Whenever the mayor shall absent himself from the city, or resign, or die, or his office shall otherwise become vacated, the board of aldermen shall immediately proceed to elect one of their number president, who shall be mayor *pro tem* until the office shall be filled by election as herein provided.

Sec. 15. This act is declared to be a public act, and may be read in evidence in all courts of law and equity within this territory without proof.

Sec. 16. The city marshal and the constables within said city of Helena shall be authorized and have power to execute anywhere within the county wherein said city may be located, all processes issued by the police magistrate of said city, or other magistrate within the said city, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

Sec. 17. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or police regulation, made in pursuance thereof, shall be brought in the corporate name of said city.

Sec. 18. In all prosecutions for any violation of any ordinance, by-law, or other regulation, the first process shall be by summons, unless oath or affirmation shall be made for a warrant, as in other cases.

Sec. 19. Upon rendition of judgment the officer rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months; and all persons so committed shall be fined one day for each five dollars of such judgment and costs, unless he shall pay the same.

Sec. 20. The police magistrate shall have jurisdiction in all cases of violation of the city ordinances, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the peace of this territory; and in all courts of this territory said police magistrate shall be held to be and he is hereby constituted a justice of the peace. But no change of venue shall be

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allowed from said police magistrate to any other justice of the peace for the hearing or determination of any case when proceedings shall be commenced against any person or persons for the violation of any city ordinance.

Sec. 21. The duties of all officers mentioned in this act, not herein prescribed, shall be prescribed by ordinance.

Sec. 22. There shall be a police magistrate, city clerk, city assessor, city treasurer and city marshal, appointed as hereinbefore provided. The police magistrate shall be a justice of the peace, and shall have the jurisdiction of a justice of the peace in said county, and he shall have the exclusive jurisdiction of all offences against the ordinances of said city. The city clerk, city assessor, city treasurer and city marshal, shall severally discharge the duties usually pertaining to said offices respectively, and the manner thereof may be prescribed by ordinance.

Sec. 23. This charter shall be submitted to the qualified voters of the city of Helena, on or before the first Monday in April, 1877, at one convenient place therein, by direction of the commissioners appointed in this act. The ballots shall have written or printed thereon "For the Charter," or "Against the Charter," and if a majority of the votes so cast at the election shall be in favor of the charter, then this act to be in full force and effect; but if a majority of the votes so cast shall be against the charter, then this act shall remain suspended, unless thereafter enforced as hereinafter set forth.

Sec. 24. W. K. Roberts, A. M. Holter, Charles Lehman, and John H. Ming be and they are hereby constituted and appointed to act as commissioners and to serve in such capacity until the first board of aldermen of said city shall be elected and duly qualified. Such commissioners, or any three of them, shall, if a majority of the electors of said city vote in favor of this charter, within thirty days from its acceptance as aforesaid, proceed to lay out the territory embraced within the limits of the said city of Helena into four wards, and fix the boundaries of the same; and shall also provide for holding the first election herein appointed in the several wards of said city; shall fix the place for holding said election in each

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of said wards; shall appoint the persons to act as judges of election in each of said wards, who shall be sworn, and whose places may be filled in case they do not serve, as provided by law in other elections; said election shall be held and returns thereof be made and certified in all respects as provided by law for the election of members of the legislative assembly. A copy of said returns of said election shall be delivered to the commissioners, who shall canvass the same within three days from the time received, and the persons receiving the highest number of votes for the several officers to be elected under this act, and the aldermen for each ward, shall be declared by said commissioners, or any two of them, duly elected to said offices. If two or more persons shall at said election receive the same number of votes for one of said offices, the commissioners shall determine the same by lot. Thereafter on the third Monday in each May each annual election shall take place.

Sec. 25. In case of rejection of this charter by a majority of the voters at the first election, at any time or times thereafter, when sixty of the qualified voters of said city shall petition said commissioners for a re-submission of said charter to the voters of said city, then it shall be the duty of said commissioners to again submit the adoption or rejection of this charter to a vote of the qualified voters of said city, and if upon said second submission a majority shall adopt this charter, then the same shall be in full force and effect from the time of its adoption. Said re-submissions shall be conducted as in section 24 provided, and whenever said commissioners, or a majority of them present in said city, shall be of the opinion that an incorporation is desired, they may re-submit said charter so many times as in their judgment shall be proper, for adoption or rejection in the manner in said section provided.

Sec. 26. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding indebtedness of Montana territory, and the redemption of the twelve per cent bonds.

Be it Enacted by the Legislative Asembly of the Territory of Montana:

Section 1. That the territorial treasurer, or such other person as may be designated by law to discharge the duties of said treasurer, shall, on the first day of July, A. D. 1876, issue on the credit of the territory of Montana coupon bonds of the said territory, to an amount not exceeding ninety-one thousand two hundred and fifty dollars, or so much thereof as may be necessary to redeem the outstanding twelve per cent bonds of the territory, unpaid on the said first day of July, A. D. 1876, redeemable at the pleasure of the territory, after two years, and payable seven years from their date, bearing interest at the rate of ten per cent per annum.

Sec. 2. The coupon bonds authorized to be issued by this act, shall be in such form as the governor of the territory may direct, and shall bear the signatures of the territorial auditor and treasurer or such other person as may be designated by law to discharge the duties of such treasurer, and shall be sealed and countersigned by the governor of said territory, and the coupons attached shall be signed by the said auditor and treasurer. Each bond shall be registered by the treasurer in a book to be kept for that purpose, which book shall show the amount of each bond, their numbers, to whom issued, and the date of the issue. The bonds authorized to be issued in section 1 of this act shall be disposed of by the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, as hereinafter provided.

Sec. 3. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall give notice by advertisement in one weekly newspaper published in the territory of Montana, and one daily newspaper published in the city of New York, on the first day of May next, and for the period of four weeks thereafter, to the effect that he will dispose of the said ninety-one

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thousand two hundred and fifty dollars of bonds (briefly describing the same, at their par value, on and after the first day of July, A. D. 1876, and the said treasurer is hereby authorized to sell said bonds, or so many thereof as may be necessary for the purposes of this act, at their par value, on and after the first day of July, A. D. 1876: *Provided*, That any bonds sold after said date shall be sold at their par value, and the interest which may have accrued thereon, and the money received therefor, shall be immediately appropriated and applied to the payment of the outstanding twelve per cent bonds, authorized by the act of January 6th, 1872.

Sec. 4. The bonds herein authorized shall be of the denomination of one hundred, five hundred, and one thousand dollars each, and the faith of the territory of Montana is hereby solemnly pledged for the payment of the interest and the redemption of the principal thereof.

Sec. 5. For the purpose of carrying into effect the provisions of this act, the sum of twelve hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, and for that purpose placed at the disposal of the governor.

Sec. 6. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall pay in lawful money of the United States, on the first day of January, A. D. 1877, the interest on each bond issued and sold, as heretofore provided, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it refers; and the amount of interest so paid shall appear in his annual report, provided for by law. *Provided*, That the principal and interest upon said bonds shall be payable in the city of New York, in case the holder or holders of such bonds and coupons shall give the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, due notice that they wish their bonds and the interest thereon paid at a designated bank in said city of New York, otherwise the same shall be payable at the office of said territorial treasurer, or such other

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person as may be designated by law to discharge the duties of such treasurer.

Sec. 7. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall reserve and set aside forty per cent of all moneys received into the territorial treasury for the purpose of meeting the payment of the interest accruing on the bonds issued in pursuance of this act, and heretofore issued in pursuance of the act of January 6th, 1872, and all surplus remaining of said forty per cent after the interest shall have been paid, shall be set aside as a sinking fund for the redemption of the principal, as provided in section 8 of this act.

Sec. 8. Whenever, at any time, the sum in said sinking fund shall exceed the sum of one thousand dollars, and from time to time thereafter, when it may so occur, the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, shall cause a notice to be published in one newspaper in Montana territory that he will, in thirty days from the date of such notice, redeem said amount of such bonds which may then be payable, giving the numbers thereof, preference being given the oldest issue; and if at the expiration of the said thirty days, the holder or holders shall fail or neglect to present the same for payment, interest thereon shall cease, but the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall at all times thereafter be ready to redeem the same on presentation. Such notice shall also be sent by mail to such places in the city of New York, of which the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall have knowledge by virtue of the provisions of section 6 of this act, with like effect. The said territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall write in red ink across the face of each bond redeemed under the provisions of this act, the word "redeemed," and shall sign his name officially under the word so written as aforesaid, and shall report the payment of the same to the next session of the legislative assembly thereafter. *Provided*, That

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if at any time before July 1st, A. D. 1878, the sum of one hundred dollars, or more, shall accumulate in the fund set aside, under the provisions of this act, for the redemption of bonds, it shall be the duty of the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, to purchase from the holders of the outstanding bonds issued under the act of January 6th, 1872, at not exceeding their par value, such bonds as he may have funds applicable for such purpose.

Sec. 9. The treasurer shall register in a book to be kept by him for that purpose, all bonds redeemed by him under the provisions of this act, which book shall show the amount of the bond, its number and date, when and to whom issued, and when and from whom redeemed, and shall cancel the bond with a canceling stamp.

Sec. 10. If any person or persons shall falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, forged, counterfeited or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting or altering any bond or coupon authorized to be issued under the provisions of this act, or shall pass, utter, publish or sell, or shall have in or keep in possession, or conceal with intent to utter, publish or sell any such false, forged, counterfeited or altered bond or coupon, with intent to defraud any body coporate or politic, or any other person or persons whatsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by a fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor not exceeding fifteen years, according to the aggravation of the offense.

Sec. 11. This act shall take effect be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the compensation of James H. Hills for services rendered the territory of Montana, for printing in the *New Northwest*, published at Deer Lodge, Montana territory, advertising for the escape of prisoners during the year A. D. 1874, at the request and direction of the governor of said territory.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. There shall be, and is hereby, appropriated out of the territorial treasury the sum of sixteen dollars, to be paid to James H. Hills, for printing in the *New Northwest*, published at Deer Lodge, Montana territory, in advertising for escaped prisoners.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of sixteen dollars, in favor of James H. Hills, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 9, 1876.

SPECIAL LAWS.

AN ACT for the relief Henry Sonnefield.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. There is hereby appropriated out of the territorial treasury the sum of fifty-four dollars to compensate Henry Sonnefield for the construction of shelving for the territorial library, and for drayage and freight on books, and one step-ladder furnished said library.

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Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum named in the first section of this act, in favor of Henry Sonnefield, to be paid out of any money in the treasury not otherwise appropriated.

Approved February 11, 1876.

SPECIAL LAWS.

AN ACT to provide for the compensation of Henry A. D. Acheul for money laid out and expended in searching for escaped convicts from the penitentiary of the territory of Montana, in the year A. D. 1874.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. There shall be and is hereby appropriated out of the territorial treasury the sum of fifty-four dollars, to be paid to Henry A. D. Acheul, for money laid out and expended in searching for escaped convicts from the territorial penitentiary during the year A. D. 1874.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of fifty-four dollars in favor of Henry A. D. Acheul, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 9, 1876.

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SPECIAL LAWS.

AN ACT for the relief of Seth Bullock.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That there shall be and is hereby appropriated out of any money not otherwise appropriated the sum of three hundred dollars ($300) to Seth Bullock, for services rendered while sheriff of Lewis and Clark county, in the case of The Territory *versus* George Paul Green, of Dawson county, charged with an assault with intent to commit murder, and for boarding said Green in the county jail of Lewis and Clarke county; and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer therefor.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

SPECIAL LAWS.

AN ACT for the relief of John Quirk.

Be it Enacted by the Legislative Assembly of the territory of Montana:

Section 1. That the sum of one hundred and fifty dollars is hereby appropriated to pay John Quirk for services rendered, and expenses incurred in attempting to capture and bring to justice the murderers of Francis Warl. And the auditor of the territory is hereby required to draw his warrant on the territorial treasurer for said amount in favor of John Quirk.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the compensation of Dr. A. H. Mitchell for medical and surgical services rendered the territory of Montana at the penitentiary of said territory during the months of March and April, A. D. 1874, at the request of F. H. English, warden of the said penitentiary.

Be it Enacted by the Legislative Assembly of the Territory of Montana:

Section 1. There shall be, and is hereby, appropriated out of the territorial treasury the sum of one hundred and fifty dollars, to be paid to Dr. A. H. Mitchell, for medical and surgical services rendered at the penitentiary of Montana at the request of F. H. English, warden of the penitentiary, for medical and surgical treatment of prisoners during the month of March, A. D. 1874.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of one hundred and fifty dollars in favor of Dr. A. H. Mitchell, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 9, 1876.

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RESOLUTIONS.

Resolution for the relief of Isaac R. Alden.

Resolved by the Council, the House concurring:

That the sum of one hundred and twenty-seven dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, in favor of Isaac R. Alden, for expenses incurred as recorder of marks and brands. The territorial auditor is hereby authorized to draw his warrant upon the territorial treasurer for said amount in favor of the said I. R. Alden.

Approved February 11, 1876.

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JOINT MEMORIALS.

To the Honorable, the Senate and House of Representatives of the United States:

Your memorialists, the Council and House of Representatives of the territory of Montana, respectfully represent that by an act of congress approved May 30, 1872, the delegate in congress from this territory is required to be elected on the Tuesday succeeding the first Monday in November, 1876, and biennially thereafter; that heretofore such election in this territory has occurred on the first Monday of August, which has been the time fixed by law for our general annual election.

That with the view to comply with the foregoing enactment of your honorable bodies, and to save the expense of more than one election, your memorialists have at their present session enacted that such election of delegate, and also the election of all other officers required by our laws to be elected, including the members of the two houses of the legislative assembly, shall transpire on the Tuesday succeeding the first Monday in November, A. D. 1876, and biennially thereafter. That in thus providing for biennial elections, instead of annual elections, as has heretofore been provided for under the laws of this territory, your memorialists have been actuated by a desire to save one-half the expense consequent on the holding of annual elections, to the people of the territory. Under the enactment of your honorable bodies providing for biennial sessions, the legislative assembly of this territory has heretofore convened on the first Monday of January of each even numbered year in biennial period; but at the present session your memorialists have enacted a law by which it is provided that hereafter the legislative assembly shall convene at the

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seat of government of the territory on the second Monday of January, A. D. 1877, and biennially thereafter, thus choosing the other year of the biennial period for the meeting of the legislative assembly.

This legislation results in a session of the legislative assembly in 1876 and in 1877. Your memorialists were ordered to pass this enactment from considerations of public duty. As the members of the legislative assembly are elected near the close of 1876, and biennially thereafter, it seemed to your memorialists that the people of this territory should be permitted to have the benefit and advantage of the expressions of their opinion, at elections, in public matters, by the assembling of their legislature within a reasonable time after the election at which the members of the legislative assembly were elected. The members elected in November, 1876, under our law, will convene in the January succeeding, being an interval of about sixty days; whereas, if the law were not so changed it would compel an interval of one year and two months before the convening of the legislative assembly, or it would compel another election in 1877, or, in other words, annual elections.

The conditions of our settlements are such as to necessarily make our elections expensive events to our people. It is therefore of great importance to this territory that annual elections be avoided.

Your memorialists are of the opinion that the act providing for biennial elections sought only to fix biennial periods within each of which one session of our legislative assembly might lawfully convene, and that it was, and is, a matter of indifference to your honorable bodies at what time in each of such biennial periods such legislative assembly should convene. Your memorialists are of the further opinion that the action taken by us, providing for a regular session in 1877, is in accordance with the provisions of your legislation providing for biennial sessions, but owing to the phraseology thereof some have entertained doubts whether our action accords with the act of congress; that a matter of such grave moment to this territory should not remain in doubt, and that we might not

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seem wanting in any loyal duty, we have deemed it proper to lay this action, with the reason therefor, before your honorable bodies. Your memorialists therefore pray that if it shall seem a matter of doubt to your honorable bodies, whether this action of ours conform to the act of congress or no, that our legislation be confirmed, and that in the proper appropriation act your honorable bodies will provide suitable appropriation to pay the expenses of a legislative assembly in January, 1877, and biennially thereafter. And your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.
ASA BROWN,
President of Council.

Joint Memorial in relation to the improvement of the navigable waters of the territory of Montana.

To the Honorable, the Senate and House of Representatives of the United States, in Congress Assembled:

Your memorialists, the Council and House of Representatives, composing the legislative assembly of the territory of Montana, most respectfully represent: That the improvement of the channels of the navigable rivers of Montana has not heretofore received that attention from congress that the importance of the subject and the necessities of the people of the territory demanded.

We beg leave to bring to the notice of your honorable bodies the fact that during the past year it has been practically demonstrated by Lieutenant-General Sheridan that the Yellowstone river is navigable, for Missouri river steamers, from its confluence with the Missouri river to a point above the mouth of the Big Horn river, a distance of four hundred and eighty miles. That it is the opinion of your memorialists, based upon an actual and thorough examination of the upper part of said Yellowstone river, that the distance of navigation

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thereon can, with a small appropriation, be extended to within less than one hundred miles of the city of Bozeman, in the county of Gallatin, thus opening a line of transportation by water from the states to the middle and southern parts of the territory, thereby materially lessening the time of freights in transit, and very materially reducing the cost of carriage; all of which is a matter of vital importance to the people of Montana.

Your memorialists would further represent that the interests of the middle and northern portion of Montana require the improvement of the channel of the Missouri river between Fort Peck and Fort Benton, of said river, to a point as near the junction of the Jefferson and Gallatin rivers as navigation may be found practicable. That on that part of the river between Fort Peck and Fort Benton, except during a short period of high water during each season, navigation is very seriously obstructed at several points, with rocks, boulders, shoals and rapids. That a small appropriation made for the purpose would effectually clear out the channel and render the river between said points navigable during the whole of the boating season.

That in relation to said river above Fort Benton, your memorialists do most respectfully represent and believe practicable, the improvement of the channel from Fort Benton to the falls of the said river, and from the falls to the presumed head of navigation, thus rendering the Missouri river navigable for freight and passenger steamers through the heart of Montana to a point at or near the confluence of the Jefferson and Gallatin rivers, making an increased distance of two hundred and five miles of steamboat navigation on said river.

That the distance from Fort Benton to the falls is twenty-eight miles; the distance of portage or land carriage around the falls is fourteen miles; the distance by river from the falls to the junction of the Jefferson and Gallatin rivers is one hundred and sixty-three miles; that the river from Fort Benton to the last point mentioned, passes through the best and most fertile portion of the territory; also through the richest mineral region on the eastern slope of the Rocky mountains

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and within fifteen miles of the city of Helena; that the portage around said falls of all goods and merchandise and reshipping same, can be accomplished for a sum not exceeding two dollars and fifty cents per ton; that the channel of the river above the falls, the greater portion of the distance to the mouth of the Jefferson river, is deep and the water sluggish, and navigable for upper river steamers in its usual condition and stage of water.

Your memorialists further represent that much work has been done in the locality of said river, upon mining claims; that a large number of mineral lodes have been prospected, which are known to be valuable for the gold, silver, lead and copper they contain, but that they remain at present unworked and undeveloped, because the present facilities of the country for exporting the ores that might be produced, to a suitable market for reduction, are entirely too expensive and inadequate; that ores, minerals and other productions which constitute the main and principal resources of the territory—the transportation of which upon wagons for several hundred miles to make connection with either water or railroad routes to the southern, eastern or western markets, consumes such a length of time and the tariff rates of such freighting being so expensive, the most of such products will not now bear shipping, but would under more favorable circumstances, and would contribute largely to the actual resources of the territory.

That your honorable body may have a reasonable conception of the amount of freight shipped up and down the Missouri river during the boating season, we beg to submit the following table of statistics for the year 1875:

Amount of freight shipped to Fort Benton, present head of navigation on the Missouri river, three thousand and twenty-six tons; amount of freight shipped from Fort Benton, nine hundred tons; amount of freight shipped to Carroll, a point about four hundred miles below Benton, on the Missouri river, twelve hundred tons; amount of freight shipped from Carroll, five hundred tons.

Your memorialists would further represent, that in view of

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the contemplated erection of two forts—one on the Big Horn, and one on Powder river—and the fact that the Crow agency is upon the Yellowstone, the saving derived from the transportation of Indian and military supplies will, in one season, repay the government for any appropriations necessary to open up that river to successful navigation. That mines of gold, silver and coal abound in that vast fertile country, and that emigration is seeking it in large numbers; the world-wide wonders of the national park are situated upon the head waters of the Yellowstone, and removing the obstructions of the river will open up a cheap and direct route for tourists and naturalists. Reminding your honorable bodies of the isolated position of this territory and the many disadvantages its people labor under, of the privations they endure, and their unfavorable situation relative to markets for the sale of their products and the procuring of supplies, we earnestly petition your favorable consideration of our necessities, and urge upon you the propriety of making an appropriation to clear out the channels of the parts of the Missouri and Yellowstone rivers your memorialists have herein referred to.

Your memorialists further beg leave to represent, that an expenditure, by the government, of a small amount of means in improving the navigation of said waters, will not only be of great benefit to the people of Montana, placing them in part on an equal footing with other territories of the west, but will also be of great utility to the government. The main rivers of the United States being national thoroughfares, we deem it but just and reasonable to ask your honorable bodies to appropriate a sufficient amount of money to remove the obsructions and make navigable said rivers. Therefore, your memorialists, do humbly ask for the appropriation of ——— dollars, to be used for such purpose, in such manner, as your honorable bodies may deem advisable. And your memorialists will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.
ASA BROWN,
President of the Council.

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To His Excellency—the President of the United States.

Your memorialists, the legislative council and house of representatives, composing the legislative assembly of the territory of Montana, would respectfully represent that the interests of the territory would be greatly promoted, and its early settlement hastened by the recission of the order of your Excellency setting aside that portion of the country on the north bank of the Yellowstone and attaching it to the Crow reservation, for the reasons herein set forth.

That the Yellowstone valley, now closed up by this order, is the most direct, natural eastern route to and from Montana. That ever since the closing of the Bozeman and Bridger roads, and the abandonment of Forts Reno and C. F. Smith, our routes to the states east of us have been, for the most part, by way of the circuitous route through the territory of Utah. That during the ensuing summer numerous, and doubtless successful attempts will be made to navigate the Yellowstone river and establish thereby the feasibility of transportation by steamboats on that stream. That the country thus set aside embraces a portion of the route selected by the Northern Pacific railroad. That that great national enterprise must of necessity push its way westward with all possible rapidity, both by reason of the terms of its charter and the wants of the nation. That the country embraced in the reservation on the north bank of the Yellowstone is peculiarly adapted to agricultural pursuits and stock raising. That numerous settlements already exist there, and many more are desirous of settling there by reason of its peculiar advantages. That the order made at the instance of Indian traders does not reach or have any national influence upon the object intended. That the maintenance of the order will work incalculable injury to the people of this territory, and is utterly valueless to the Indians for the purposes intended.

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We, your memorialists, would therefore earnestly pray your Excellency to rescind the order, and your memorialists will ever pray, &c.

S. W. LANGHORNE,
Speaker of the House of Representatives.
ASA BROWN,
President of the Council.

To Hon. William W. Belknap, Secretary for the Department of War:

Your memorialists, the legislative council and house of representatives, comprising the legislative assembly of the territory of Montana, would respectfully submit:—

That they have seen with surprise and regret, in the report of General Terry, a recommendation for the abandonment of the military post at Camp Baker, in the Smith River valley, Meagher county, Montana.

That said move, if executed, would be unwise, unpolitic, and premature, inasmuch as said valley is very sparsely settled, and its inhabitants are constantly menaced by roving bands of Indians. Not only do the Western Indians, the Nez-Perces, Pendi-Oreilles, Flatheads, Spokanes, and others, traverse said valley, on their annual buffalo hunts, but even the Sioux Indian is occasionally seen on its borders; and, while the former will, as a rule, confine their operations to stealing horses and other stock, the latter will, in addition, take all the scalps he can find. Scarcely a month passes by that we are not reminded of our isolated position by the atrocious murders on our borders. Troops are not entirely able to prevent those Indian atrocities, but their presence has a tendency to decrease them.

Therefore, your memorialists, while they have no objection to make to that part of General Terry's report recommending the erection of a military post on the Muscle-Shell river, somewhere near the road leading from Carroll, on the Missouri,

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to Helena, and even heartily concur, in that respect, with General Terry, deeming the establishing of a military post, at the place indicated above, not only of great convenience to the people of Montana, but even a duty which the United States government owes to all its citizens, viz., ample protection against Indians, wherever the flag of the stars and stripes waves,—beg leave to ask you to disregard such recommendation of General Terry, as refers to the removal or abandonment of Camp Baker, as a military post, until such time when an increased security of life and property will justify it. Your Honor having traveled, last summer, from Helena to Carroll, via Camp Baker, will be enabled to form a correct opinion as to the just nature of our request from personal observation.

And your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.

ASA BROWN,
President of the Council.

To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the Legislative Council and House of Representatives, composing the legislative assembly of the territory of Montana, would most respectfully represent to your honorable bodies that, in consequence of certain obstructions in the Columbia river, Montana territory is deprived of the salmon fish.

That, were said obstructions removed, the salmon fish would ascend Clark fork of the Columbia into lake Pendi-Oreille, in the northern part of Idaho territory; the Pendi-Oreille river into the Flathead lake in Montana; thence, further ascending, Clark's Fork and its tributaries, the Big Blackfoot, Bitter Root, Hell Gate, Rock Creek, and Deer Lodge rivers, to their head-waters, and many small feeders thereto, thus supplying Montana streams of the aggregate length of over three thousand miles, spreading out over

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all that vast portion of Montana lying west of the main range of the Rocky mountains, embracing an area of territory larger than all of the New England states, with this excellent and valuable fish.

Your memorialists would further represent that said salmon fish are very abundant in the river below said obstructions herein referred to. That they ascend the river to said point in large quantities. That, were said obstructions removed, they would ascend into all the waters hereinbefore mentioned, and deposit their spawn. That all the streams mentioned are exceedingly well adapted to fish breeding. That the supply of these Montana streams, with the salmon fish, is very much desired by the people of the territory.

We believe the subject of fish culture one that should receive substantial encouragement from the government of the United States, and deserving special attention in the western territories, embracing within their boundaries the head-waters of the three great rivers, the Missouri, Columbia, and the Colorado.

Your memorialists would most respectfully state that the obstructions referred to are known as the Kettle Falls of the the Columbia, situated a few miles below old Fort Colville, in Washington territory, extending across the river, and about fifteen feet in hight. That a small sum of money, wisely expended, under the direction of a skillful engineer, would remove said obstructions sufficiently to enable said fish to pass over them during the spawning season.

Wherefore, your memorialists earnestly pray that an appropriation of fifteen thousand dollars may be made by your honorable bodies, to be used and expended for the purposes above mentioned.

And as in duty bound, your memorialists will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.

ASA BROWN,
President of the Council.

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To the Honorable members of the Senate and House of Representatives of the United States:

Your memorialists, the council and house of representatives of the territory of Montana, respectfully represent that by an act of congress approved May 30, 1872, the delegate in congress from this territory is required to be elected on the Tuesday succeeding the first Monday in November, 1876, and biennially thereafter; that heretofore such election in this territory has occurred on the first Monday of August, which has been the time fixed by law for our general annual election. That with the view to comply with the foregoing enactment of your honorable bodies, and to save the expense of more than one election, your memorialists have, at their present session, enacted that such election of delegate, and also the election of all other officers required by our laws to be elected, including the members of the two houses of the legislative assembly shall transpire on the Tuesday succeeding the first Monday in November, A. D. 1876, and biennially thereafter; that in thus providing for biennial elections, instead of annual elections, as has heretofore been provided for, under the laws of this territory, your memorialists have been actuated by a desire to save one-half the expense consequent on the holding of annual elections, to the people of the territory under the enactment of your honorable bodies, providing for biennial sessions; the legislative assembly of this territory has heretofore convened on the first Monday of January of each even numbered year in the biennial period; but at the present session of your memorialists have enacted a law by which it is provided that hereafter the legislative assembly shall convene at the seat of government of the territory on the second Monday of January, A. D. 1877, and biennially thereafter, thus choosing the other year of the biennial period for the meeting of this legislative assembly.

This legislation results in a session of the legislative assembly in 1876, and in 1877. Your memorialists were ordered to pass this enactment from considerations of public duty, as the members of the legislative assembly are elected near the close of 1876, and biennially thereafter, it seemed to your memori-

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alists that the people of this territory should be permitted to have the benefit and advantage of the expression of their opinion at elections, on public matters, by the assembling of their legislature within a reasonable time after the election at which the members of the legislative assembly were elected.

The members elected in November, 1876, under our law, will convene in the January succeeding, being an interval of about sixty days; whereas, if the law were not so changed it would compel an interval of one year and two months before the convening of the legislative assembly, or it would compel another election in 1877, or in other words, annual elections. The condition of our settlements are such as to necessarily make our elections expensive events to our people. It is therefore of great importance to this territory that annual elections be avoided.

Your memorialists are of the opinion that the act providing for biennial elections ought only to fix biennial periods, within each of which one session of our legislative assembly might lawfully convene, and that it was and is a matter of indifference to your honorable bodies, at what time in each of such biennial periods such legislative assembly should convene. Your memorialists are of the farther opinion that the action taken by us providing for a regular session in 1877, is in accordance with the provisions of your legislation, providing for biennial sessions, but owing to the phraseology thereof, some have entertained doubts whether our action accords with the act of congress. That a matter of so much grave moment to the people of this territory should not remain in doubt, and that we might not seem wanting in any loyal duty, we have deemed it proper to lay this action with the reason therefor, before your honorable bodies. Your memorialists, therefore pray, that if it shall seem a matter of doubt to your honorable bodies, whether this action of ours conform to the act of congress or no, that our legislation be confirmed and that in the proper apppropriation act your honorable bodies will provide the suitable appropriation to pay the expenses of

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a legislative assembly in January, 1877, and biennially thereafter; and your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.
ASA BROWN,
President of the Council.

To the Honorable, the Senate and House of Representatives, in Congress Assembled:

Your memorialists, the Council and House of Representatives of the territory of Montana, repectfully represent that under the operations of the mineral law of 1872, entries have been made in the land office at Helena to the amount of eleven thousand seven hundred and ninety-seven acres, and the same paid for. The amount applied for and not yet paid for amounts to nearly six thousand acres, comprising some of the best placer mining ground in the territory. A large proportion of these entries have been made by non-residents, thus the law is made to operate injuriously to the territory by preventing the development of our placer mines and enforce idleness of its most important and productive industry. It is not, however, the purpose of your memorialists to ask to impair the rights of such persons as have made application for mining ground under said law, nor such persons as have had their claims surveyed with intention of making application for the purchase of the same.

Your memorialists earnestly request that the law be repealed, to the end that the interest of actual residents may be more securely guarded. And your memorialists will ever pray.

S. W. LANGHORNE,
Speaker of the House of Representatives.
ASA BROWN,
President of the Council.

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